

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

IFTIKHAR SAIYED,

Plaintiff,

-v.-

COUNCIL ON AMERICAN-ISLAMIC
RELATIONS ACTION NETWORK, INC.,

Defendant.

CIVIL NO: 1:10-cv-00022-PLF-AK

RENE ARTURO LOPEZ., *et al.*,

Plaintiffs,

-v.-

COUNCIL ON AMERICAN-ISLAMIC
RELATIONS ACTION NETWORK, INC.,

Defendant.

CIVIL NO: 1:10-cv-00023-PLF-AK

Pursuant to Federal Rules of Civil Procedure 56 and Local Civil Rules 7(h), Plaintiffs hereby oppose Defendant's motion for summary judgment ("Motion") on the following grounds: (1) Defendant has failed to present admissible evidence to establish that there exists no genuine dispute of material facts to support its Motion; and (2) Defendant's legal argument about damages mischaracterizes this case as a claim of "legal malpractice" and, as such, ignores Virginia law on the scope of damages for fraud and breach of fiduciary duty.

Moreover, as set forth in the memorandum of points and authorities herein and as supported by Plaintiffs' Separate Statement of Issues and Undisputed Facts filed herewith pursuant to LCvR 7(h)(1), Plaintiffs respectfully submit that pursuant to Rule 56(f)(1) the Court should enter summary judgment on the issue of liability for Plaintiffs against Defendant on Counts Two (Virginia Consumer Protection Act), Three (common law fraud), and Four (breach of fiduciary duty) of the Amended Complaint insofar as there are no disputed material facts

precluding summary judgment.

Respectfully submitted,

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**PLAINTIFFS' SEPARATE STATEMENT OF DISPUTED FACTS
AND UNDISPUTED FACTS**

Pursuant to LCvR 7(h)(1), and in response to the “Statement of Undisputed Facts” set forth in Defendant’s motion for summary judgment, Plaintiffs hereby submit the following statement of genuine issues setting forth all material facts as to which Plaintiffs contend there exists a genuine issue necessary to be litigated followed by a statement of facts as to which Plaintiffs contend there exists no genuine issue necessary to be litigated.¹ Thus, this document

¹ Pursuant to LCvR 7(h), “An opposition to [a motion for summary judgment] shall be accompanied by a separate concise statement of genuine issues setting forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated, which shall include references to the parts of the record relied on to support the statement. Each such motion and opposition must also contain or be accompanied by a memorandum of points and authorities and proposed order as required by LCvR 7(a), (b) and (c).” (LCvR 7(h)). This document represents the separate statement of genuine issues setting forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated or, pursuant to Fed. R. Civ. P. 56(f), should be decided in favor of Plaintiffs. The memorandum of points and authorities (subject to LCvR 7(e)) follows this document as a single ECF filing entry per the ECF filing rules. Also per the

contains two sets of factual propositions supported by the record. In the first section, Plaintiffs set forth their specific responses to each of Defendant's "Statements of Undisputed Facts." We have titled this section, appropriately enough, "Plaintiffs' Response to Defendant's Statement of Undisputed Facts." In the second section, Plaintiffs set forth their separate statement of issues and undisputed facts, titled, "Plaintiffs' Statement of Issues & Undisputed Facts."

In the first section, we have numbered sequentially each of Defendant's "Statements of Undisputed Facts" and posed a specific response immediately thereafter. In the second section, we have posited what we consider to be the dispositive issues followed by specific statements of fact we consider undisputed with citations to the record. We have numbered each statement of fact sequentially and have continued the numbering from the first section so the document as a whole has one numbered sequence. Plaintiffs' Memorandum of Points and Authorities filed in opposition to Defendant's motion ("Pls.' Mem.") cites to this document as "Pls.' Facts" followed by the numbered fact statements.

ECF filing rules, the exhibits referenced herein have been filed as attachments to the main docket entry.

LIST OF EXHIBITS

Exhibit	Name of Exhibit
Exhibit A	Declaration of David Yerushalmi
	Exhibit 1: Athman Deposition Transcript (May 10, 2011)—filed under seal
	Exhibit 2: Athman Deposition Transcript (June 13, 2012)—filed under seal
	Exhibit 3: Iqbal Deposition Transcript (May 11, 2011)—filed under seal
	Exhibit 4: Iqbal Deposition Transcript (June 12, 2012)—filed under seal
	Exhibit 5: Jaka Deposition Transcript (June 11, 2012)
	Exhibit 6: Jaka Deposition Transcript (June 12, 2012)
	Exhibit 7: Memon Deposition Transcript (June 11, 2012)
	Exhibit 8: Ahmad Deposition Transcript (June 13, 2012)
	Exhibit 9: Lopez Deposition Transcript (May 25, 2011)
	Exhibit 10: Turner Deposition Transcript (May 25, 2011)
	Exhibit 11: Saiyed Deposition Transcript (May 26, 2011)
	Exhibit 12: Nur Deposition Transcript (September 4, 2012)
	Exhibit 13: Abdussalaam Deposition Transcript (September 5, 2012)
	Exhibit 14: Lopez’s Answers to Defendant’s First Set of Interrogatories
	Exhibit 15: Turner’s Answers to Defendant’s First Set of Interrogatories
	Exhibit 16: Saiyed’s Answers to Defendant’s First Set of Interrogatories
	Exhibit 17: Abdussalaam’s Answers to Defendant’s First Set of Interrogatories
	Exhibit 18: Nur’s Answers to Defendant’s First Set of Interrogatories
	Exhibit 19: Plaintiffs’ Deposition Ex. 8
	Exhibit 20: Plaintiffs’ Deposition Ex. 14

Exhibit 21: Plaintiffs' Deposition Ex. 13

Exhibit 22: Plaintiffs' Deposition Ex. 16 at 315—filed under seal

Exhibit 23: Iqbal Ltr. to Plaintiff Abdussalaam—filed under seal

Exhibit 24: Plaintiffs' Deposition Ex. 3 at 81-82—filed under seal

Exhibit 25: Parvez Ahmed Ltr. to Rizwan Jaka—filed under seal

Exhibit 26: Memon Deposition Transcript (June 11, 2012)

Exhibit 27: Plaintiffs' Deposition Ex. 4 at 105-07—filed under seal

Exhibit 28: Plaintiffs' Deposition Ex. 4 at 108-12—filed under seal

Exhibit 29: Plaintiffs' Deposition Ex. 16 at 323—filed under seal

Exhibit 30: Plaintiffs' Deposition Ex. 16 at 315-352—filed under seal

Exhibit 31: Plaintiffs' Deposition Ex. 16 at 834-34—filed under seal

Exhibit 32: Plaintiffs' Deposition Ex. 16 at 896-97—filed under seal

Exhibit 33: Plaintiffs' Deposition Ex. 17 at 146-47

Exhibit B Declaration of Aquilla Turner

Exhibit C Declaration of Mohammed Baraktullah Abdussalaam

Exhibit D Declaration of Bayenah Nur

Exhibit E Declaration of Iftikhar Saiyed

Exhibit F Declaration of Dr. Ron Kimball

Exhibit 1: Curriculum Vitae

Exhibit 2: Letter Reports re: Preliminary Intake Interviews

Exhibit 3: Diagnostic Reports—filed under seal

Exhibit 4: Statement of Compensation

**PLAINTIFFS' RESPONSE TO
DEFENDANT'S STATEMENT OF UNDISPUTED FACTS**

1. Defendant's Statement:² CAIR³ possesses intellectual property that includes trademarks in the names "CAIR" and "Council on American-Islamic Relations" and also a stylized service mark that they use as their logo.

Plaintiffs' Response: Plaintiffs do not dispute that CAIR may "possess[] intellectual property that includes trademarks in the names 'CAIR' and 'Council on American-Islamic Relations' and also a stylized service mark that they [sic] use as their [sic] log." Plaintiffs object to this statement as an undisputed fact in that it has no support in the record and Defendant cites to no evidentiary support.

2. Defendant's Statement: Pursuant to an application process that CAIR maintains, CAIR considers groups of individuals seeking to utilize CAIR's intellectual property in furtherance of CAIR's mission.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact for the following reasons: [1] The citation to the record is to a form document presented without foundation or authentication and to the extent that the document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] the document does not on its face relate in any way to the use of "CAIR's intellectual

² Plaintiffs' restatements of "Defendant's Statement" omit the citations to the record included in Defendant's Statement.

³ "CAIR" is the acronym used by Defendant to identify itself in its motion for summary judgment. (Def.'s Mot. at 1). Throughout discovery, CAIR also refers to itself as "CAIR National." (See, e.g., Athman Dep. at 91:23-93:2 [Defendant CAIR's Rule 30(b)(6) witness], at Ex. 1 to Yerushalmi Decl. at Ex. A). "CAIR-F" shall mean CAIR-Foundation, Inc., an entity related to CAIR, which operates out of the same offices as CAIR. (Mem. Order, July 13, 2011 [Doc. No. 42] at 4). CAIR and CAIR-F are also referred to by Defendant collectively as "CAIR National." (See Athman Dep. at 12:4-13 at Ex. 1 to Yerushalmi Decl. at Ex. A). "CAIR-VA" refers to a satellite office of Defendant sometimes referred to as "CAIR-Maryland and Virginia" and sometimes as "CAIR-Virginia." (Def.'s Mot. at 9).

property in furtherance of CAIR’s mission,” it is not signed, and there is no indication it is even relevant to the timeframe of this litigation. Moreover, [3] Khalid Iqbal, Defendant CAIR’s director of operations during all times relevant to this litigation, explicitly testified that no such agreement existed during his tenure and that no agreement was entered into with CAIR-VA or any other chapter during his tenure. (Pls.’ Facts at ¶ 105). This was underscored by the fact that no signed written agreement was produced in response to a request for production of documents seeking any such agreements between Defendant CAIR and any of its chapter offices. (Yerushalmi Decl. at ¶ 20 at Ex. A).

3. Defendant’s Statement: Successful applicants are authorized to utilize CAIR’s intellectual property.

Plaintiffs’ Statement: Plaintiffs object to this statement as an undisputed fact for the reasons set forth in No. 2 above.

4. Defendant’s Statement: Such authorization does not usurp the successful applicant’s status as a “separate entity” with, for instance, hiring and firing discretion.

Plaintiffs’ Statement: Plaintiffs object to this statement as an undisputed fact because it is a legal conclusion. Further, the legal conclusion does not follow from the citation to the record.

5. Defendant’s Statement: Around February 11, 2002, CAIR authorized a CAIR-supporter and Maryland resident named Seyed Mowlana to utilize CAIR’s marks for the purpose of starting a chapter of CAIR in the state of Maryland.

Plaintiff’s Statement: Plaintiffs object to this statement as an undisputed fact because it is not supported by the citation to the record for several reasons: [1] The citation to the record is to what appears to be an unsigned letter and attached unsigned form document presented without foundation or authentication and to the extent that the document is cited for the truth of the

matter asserted, it is hearsay and inadmissible. And, to the extent these documents are admissible, [2] the documents do not on their face relate in any way to the use of “CAIR’s marks for the purpose of starting a chapter of CAIR in the state of Maryland.” Finally, [3] there is no indication in the record that these documents operated as CAIR’s authorization to Mowlana to do anything. Rather, at best it was Mowlana’s assertion that he had been approved by Defendant CAIR to open a CAIR office in Maryland.

6. Defendant’s Statement: On March 13, 2002, Seyed Mowlana incorporated the Council on American-Islamic Relations-Maryland Inc. under the laws of the State of Maryland.

Plaintiffs’ Statement: Plaintiffs do not dispute this statement but do object to this statement based upon the citation to the record because the document cited to is presented without authentication.

7. Defendant’s Statement: In 2007, the chapter founded by Seyed Mowlana moved to Virginia and applied for and obtained a Business License from the Town of Herndon to operate its office in Herndon, Virginia.

Plaintiffs’ Statement: Plaintiffs object to this statement on the following grounds: [1] The record does not support the statement that Mowlana “founded” the Council on American-Islamic Relations-Maryland Inc. At best, the document cited to in No. 6 above indicates that Mowlana acted as this entity’s incorporator. [2] The citation to the record is to a document presented without authentication. And, [3] the document references an entity called “Council on American-Islamic Relations (CAIR) Maryland and Virginia Chapter,” not Council on American-Islamic Relations-Maryland, Inc. As such, the document cited does not evidence that the Maryland entity “moved to Virginia and applied for and obtained a Business License from the Town of Herndon to operate its offices in Herndon, Virginia.” This is important because

“Council on American-Islamic Relations-Maryland Inc.” was never authorized to do business in Virginia as CAIR-Maryland and Virginia nor by any other fictitious name or “dba.” (Yerushalmi Decl. at ¶¶ 21-22 at Ex. A).

8. Defendant’s Statement: This chapter called itself CAIR-Maryland and Virginia (“CAIR-VA”). CAIR-VA also sought and received authority from Virginia’s State Corporation Commission to “transact business in Virginia.”

Plaintiffs’ Statement: Plaintiffs do not dispute that the entity called the Council on American-Islamic Relations-Maryland, Inc. (“CAIR-Maryland”) was authorized to do business in Virginia. Plaintiffs object to the representation that CAIR-Maryland and Virginia (“CAIR-VA”) was authorized to do business in Virginia because CAIR-Maryland was not authorized to do business in Virginia under a fictitious name or “dba” as CAIR-VA or any other fictitious name. (Yerushalmi Decl. at ¶ 21-22 at Ex. A).

9. Defendant’s Statement: CAIR-VA applied for and received tax exempt status “under section 501(c)(3) of the Internal Revenue Code.”

Plaintiffs’ Statement: Plaintiffs object to this statement as an undisputed fact on the following grounds: [1] The document cited to is presented without foundation or authentication. And, to the extent this documents is admissible, [2] the document references CAIR-Maryland not CAIR-VA and, as noted above, CAIR-Maryland was not authorized to do business as CAIR-VA.

10. Defendant’s Statement: To that end, when CAIR-VA received IRS inquiries, CAIR-VA directed its accountant to respond.

Plaintiffs’ Statement: Plaintiffs object to this statement as an undisputed fact on the following grounds: [1] The document cited to is presented without foundation or authentication and to the extent that the document is cited for the truth of the matter asserted, it is hearsay and

inadmissible. Further, to the extent this document is admissible, [2] the document does not evidence the purported facts.

11. Defendant's Statement: CAIR-VA, through its board and agents, acted in a variety of domains. CAIR-VA raised funds, maintained its own bank accounts, possessed a federal tax identification number, issued tax documents to its independent contractors, directed its programming, created and distributed its own promotional materials, invited CAIR staff to speak at CAIR-VA events, entered into agreements with other entities, filed IRS Form 990s and other paperwork with the IRS, maintained its own detailed accounting records, paid fees to the state of Maryland and commonwealth of Virginia, and directed vendors to perform services for it, among other actions.

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] All of the documents cited to are presented without foundation or authentication and to the extent that the documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] the financial documents cited to relate to CAIR-Maryland and not to CAIR-VA. Further, [3] the documents cited do not evidence that CAIR-VA was acting "through its board and agents" or that these individuals were acting independently as opposed to acting on behalf of CAIR or other entity. In fact, one of the key elements of this case and demonstrated by the record is the fact that Iqbal was really controlling Days on behalf of Defendant CAIR and not the CAIR-VA board. (Pls.' Facts at ¶¶ 87-105).

12. Defendant's Statement: CAIR-VA's bylaws established that its affairs "shall be managed by the Board of Directors." Pursuant to its bylaws, CAIR-VA maintained a board that oversaw the operation of CAIR-VA and made policy-level decisions about CAIR-VA's direction and

programming.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these document are admissible, [2] the document cited to as CAIR-VA's bylaws is on its face by-laws for the CAIR-Maryland entity not CAIR-VA. [3] The document cited to as evidence that, "pursuant to its by-laws," CAIR-VA maintained a board that oversaw the operation of CAIR-VA and made policy-level decisions about CAIR-VA's direction and programming neither establishes that CAIR-VA acted in conformity with its by-laws or acted through an independent board to control "policy-level decisions." And, [4] as noted above, Iqbal made the policy decisions relating to Days' work as an attorney, including authorizing Days to represent CAIR clients, asking Days to help formulate the CAIR-VA policy about taking legal fees, Days' specific handling of mail, and Days' title as Resident Attorney and Civil Rights Manager. (Pls.' Facts at ¶ 11).

13. Defendant's Statement: To this end, CAIR-VA's board conferred about and directed the entity's affairs at regular intervals and on an as-needed basis.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact because the cited testimony by Iqbal states does not indicate that Iqbal's meetings with the CAIR-VA board were to "confer[] about and direct[] the entity's affairs. Moreover, in the very testimony cited by Defendant CAIR, Iqbal concedes, "I don't think they [the board meetings] were at any regular time space. I think every month, 2 months." (Iqbal Dep. at 107:1-14 at Ex. C to Def.'s Mot.). Yet, Iqbal's conjecture is contradicted by the very documentary evidence Defendant presents in No. 14 below where the CAIR-VA board only met seven times, as evidenced by the purported

actual minutes of the board meetings, from 2006 until its closing in 2008. Furthermore, Plaintiffs object to the inference from the testimony cited that CAIR-VA “directed” the entity’s affairs insofar as that is not what the testimony indicates. In fact, Iqbal, who was both serving as an officer of Defendant CAIR overseeing CAIR-VA as a chapter office of Defendant CAIR and as CAIR-VA’s executive director, testified that he was tasked with running CAIR-VA. (*See, e.g.,* Pls.’ Facts at ¶ 104).

14. Defendant’s Statement: During the period of time relevant to this litigation, CAIR-VA held regular board meetings, including on, but not limited to the following dates: August 10, 2006, August 22, 2006, October 2, 2006, November 2, 2006, November 21, 2006, December 19, 2006, January 30, 2007, February 24, 2007, around April 10, 2007, September 23, 2007, October 18, 2007, February 10, 2008, May 6, 2008, and June 30, 2008.

Plaintiffs’ Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] All of the documents cited to are presented without foundation or authentication and to the extent that the documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they only evidence meetings took place in 2006 on August 10 and November 2; in 2007 on January 30, “around April 10,” and September 23; and in 2008 on February 10 and June 30. While the documents refer to possible other meetings, there is no evidence that these meetings took place, and there was no testimony that these requested meetings took place. In fact, according to the testimony of several board members, the board never met face-to-face, knew very little about the day-to-day operations of CAIR-VA, and did not set policy—Iqbal did, and in some cases *after seeking advice from Morris Days*. (Pls.’ Facts, at ¶¶ 31, 104).

15. Defendant’s Statement: When CAIR-VA’s board contemplated entering into a

memorandum of understanding with CAIR regarding the relationship between the two offices in 2006, CAIR-VA's board discussed retaining "independent decision making" for themselves.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that the document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] the document only indicates that CAIR-VA sought a relationship with Defendant CAIR that would allow "independent decision making." However, the very fact that CAIR-VA had to position itself to gain its independence suggests that this issue was a point of contention between CAIR-VA and Defendant CAIR. Furthermore, the document does not even suggest that CAIR-VA was successful in gaining its independence from Defendant CAIR. Indeed, the factual record evidences quite the opposite. (Pls.' Facts at ¶¶ 87-105).

16. Defendant's Statement: CAIR-VA's board also determined whether CAIR-VA would adopt any new board members, including, but not limited to new board members Ali Memon and Hassan Ahmed.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that the document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] it only indicates that the CAIR-VA board appointed these two additional members. The document cited does not evidence that this decision was made independent of Defendant CAIR nor does it indicate that the CAIR-VA board had independence simply.

17. Defendant's Statement: The Board of CAIR-VA directed Iqbal to recruit other

prospective board members.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that the document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] it only indicates that the CAIR-VA board sought to appoint additional members. The document cited does not evidence that this decision was made independent of Defendant CAIR, nor does it indicate that the CAIR-VA board had independence simply.

18. Defendant's Statement: CAIR-VA's board made decisions regarding the dispensation of CAIR-VA funds, including who was hired, at what salary, and for what purposes. CAIR-VA's board set policy regarding the reimbursement of "travel expense[s]." CAIR-VA's board also reviewed and approved the budget for the office.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that the document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] it only indicates that the CAIR-VA board made certain internal decisions, but this document cited does not evidence that these decisions were made independent of Defendant CAIR, nor does it indicate that the CAIR-VA board had independence simply.

19. Defendant's Statement: CAIR-VA's Board of Directors controlled the activities of the [sic] Khalid Iqbal, CAIR-VA's acting executive director. When Iqbal deviated from the directives of CAIR-VA's board, the board asserted its authority to implement its decision. For example, when Iqbal once misstated a CAIR-VA board decision and directed CAIR-VA's

accountant to add “\$200 per month” to Days’ compensation as “assistance for” Days’ “health insurance”, Jaka, the chairman of CAIR-VA’s board of directors, corrected the mistake, telling the accountant that CAIR-VA “did not approve [a] health insurance payment supplement” for Days.

Plaintiffs’ Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that the documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] the characterization of the evidence as indicative of CAIR-VA board’s “control” over Iqbal is false. (*See, e.g.*, Pls.’ Facts at ¶¶ 87-105). Specifically, the documents only indicate that the CAIR-VA board made certain internal decisions, but the documents cited do not evidence that these decisions were made independent of Defendant CAIR, nor does it indicate that the CAIR-VA board had independence simply.

20. Defendant’s Statement: On May 6, 2008, when CAIR-VA determined that it would dissolve, CAIR-VA’s board effected this decision via a board motion that received unanimous board member approval. That board motion also directed and authorized Iqbal to take “all necessary steps” to dissolve the chapter and directed the filing of Articles of Dissolution.

Plaintiffs’ Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they only indicate that the CAIR-VA board made certain internal decisions, but the documents cited do not evidence that these decisions were made independent of Defendant CAIR nor does it indicate that the CAIR-

VA board had independence simply. (Pls.' Facts at ¶¶ 87-105).

21. Defendant's Statement: On May 6, 2008, CAIR-VA informed CAIR of its decision to dissolve and explained that if CAIR wanted to take over CAIR-VA's office "as [CAIR's] field office," CAIR would need to inform CAIR-VA by May 10, 2008. CAIR-VA's board and CAIR's staff discussed the idea of "dissolve[ing] (sic) [CAIR-VA] [as an] independent entity and hav[ing] [CAIR] directly manage [CAIR-VA's] office as a satellite office of [CAIR]." On May 28, 2008, CAIR indicated that it would not be taking over the possession of CAIR-VA's office or its operations. Pursuant to CAIR-VA's decision to dissolve, CAIR-VA filed an "Application for a Certificate of Withdrawal" of its authority to conduct business in Virginia.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they only indicate that the CAIR-VA board made certain internal decisions, but the documents cited do not evidence that these decisions were made independent of Defendant CAIR, nor does it indicate that the CAIR-VA board had independence simply. In fact, the documents cited suggest a symbiotic relationship between Defendant CAIR and CAIR-VA and one where Defendant CAIR had a unilateral option to allow CAIR-VA to close or to take over entirely its operations. Moreover, as the factual record evidences, Defendant CAIR unilaterally controlled the future of CAIR-VA. (Pls.' Facts at ¶¶ 87-105).

22. Defendant's Statement: Pursuant to CAIR-VA's decision to dissolve, CAIR-VA filed an "Application for a Certificate of Withdrawal" of its authority to conduct business in Virginia. CAIR-VA's application for withdrawal was approved by Virginia's State Corporation

Commission on June 16, 2008.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The documents cited to are presented without authentication. And, to the extent these documents are admissible, [2] the documents relate to CAIR-Maryland not to CAIR-VA.

23. Defendant's Statement: While Iqbal began volunteering at CAIR-VA in 2006, CAIR-VA's board gave him the title "Volunteer Acting Executive Director" on January 30, 2007.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] it does not indicate Iqbal "began volunteering at CAIR-VA in 2006" or that "Volunteer Acting Executive Director" was a "title" given him by the board. In fact, the evidence demonstrates that Iqbal's salary as executive director of CAIR-VA was paid for by Defendant CAIR. (Pls.' Facts at ¶ 100).

24. Defendant's Statement: As CAIR-VA's executive director, Iqbal ran CAIR-VA "under [the] broad supervision of the board."

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact but do not dispute that CAIR-VA board member Memon thought that the CAIR-VA board exercised "broad supervision" of Iqbal as executive director of CAIR-VA. However, the factual record as a whole indicates the CAIR-VA board exercised no real authority or control over Iqbal as Days' supervisor or as the executive director of CAIR-VA. (Pls.' Facts at ¶¶ 87-105).

25. Defendant's Statement: Iqbal was asked by CAIR-VA's board to be "in charge of day-to-day operations" of CAIR-VA.

Plaintiffs' Statement: Plaintiffs do not dispute this statement. However, the ultimate

decision to allow Iqbal to work at CAIR-VA was Defendant CAIR's because it was Defendant CAIR who paid his salary and allowed CAIR-VA to remain open. (Pls.' Facts at ¶¶ 100-103).

26. Defendant's Statement: As CAIR-VA's acting executive director, Iqbal made recommendations to CAIR-VA's board, though CAIR-VA's board retained the authority to accept or reject those recommendations. For example, Iqbal recommend (sic) to CAIR-VA board that it "hire [Days]...part time and pay him \$1500 or \$2000 per month."

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] it does not set forth the fact that the CAIR-VA board "retained" any authority over Iqbal's recommendations, rather that the CAIR-VA board agreed with and approved of Iqbal's recommendation in this one instance. (Pls.' Facts at ¶¶ 87-105).

27. Defendant's Statement: Iqbal also regularly reported to the board on CAIR-VA's actions and activities.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they do not evidence that Iqbal "regularly reported" to anyone insofar as these documents apparently represent three emails containing very little information and only one lengthy report over a period of three years. (*See also* Pls.' Facts at ¶¶ 87-105).

28. Defendant's Statement: Iqbal took calls as CAIR-VA's executive director, managed

CAIR-VA's contractors, supervised CAIR-VA's staff and volunteers, and presented himself to prospective board members as CAIR-VA's acting executive director.

Plaintiffs' Statement: Plaintiffs do not object to this statement.

29. Defendant's Statement: Iqbal also established practices and procedures to be followed by "all CAIR MD and VA chapter staff and volunteers." These practices and procedures regarded the use of "CAIR MD and VA chapter stationary," record keeping, the handling of "mail or package[s] that [are] suspicious," phone etiquette and intake procedure, among many other aspects of CAIR-VA's operations. While at all times relevant to this litigation CAIR-VA maintained a policy that forbade its staff, volunteers, and contractors from accepting payment for any purpose, on October 1, 2007, Iqbal reiterated this policy in a directive stating that "absolutely no money must exchange hands for any case work or filing fees."

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] it is dated October 1, 2007, after Plaintiffs had paid monies to Morris Days (Pls.' Facts at ¶ 68) and does not set forth that "at all times relevant to this litigation CAIR-VA maintained a policy that forbade" CAIR-VA employees from taking or accepting funds from clients on behalf of CAIR-VA. In fact, the July 30, 2007 email from Iqbal to Days evidences exactly the opposite: that as of July 2007 there was no policy in place about taking legal fees. (Pls.' Facts at ¶ 112).

30. Defendant's Statement: These policies were posted in CAIR-VA's offices on a bulletin board outside of Days's space in CAIR-VA's office.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact because the

cited testimony in larger context as set forth below makes clear that these “policies” were posted no earlier than October 2007, well after Plaintiffs Lopez, Turner, and Abdussalaam had paid Days for fictitious legal services purportedly provided on behalf of Defendant CAIR. (Pls.’ Facts at ¶ 68). Further, as noted above, as of July 2007, there was no policy against accepting legal fees from CAIR clients. (Pls.’ Facts at ¶ 112).

31. Defendant’s Statement: When Days deviated from CAIR-VA’s policies, Iqbal was charged by CAIR-VA’s Board with enforcing CAIR-VA’s policy. For example, on July 30, 2007, Iqbal received a complaint from an individual who said that he “gave some \$390 to [Days] regarding his immigration case.” Iqbal explained that even if the “money was only for the filing fee” it still violated CAIR-VA’s policy which made clear that “absolutely no money should be taken.” Iqbal issued a “stern verbal reprimand” when Days claimed that money he took from an individual “was to be used for filing fees.”

Plaintiffs’ Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] the documents do not indicate that “Iqbal was charged by CAIR-VA’s Board with enforcing CAIR-VA’s policy,” nor do the documents indicate that the CAIR-VA board even knew that Iqbal discovered that Days had taken funds from at least one client in July 2007. Further, on their face, the documents contradict Defendant’s statements. First, one document indicates Iqbal learned in July 2007 that Days had taken money from CAIR clients but there is no “stern warning” noted in the document. Indeed, the document clearly evidences that at the time (July 2007) there was no policy in place forbidding the taking of legal fees. Rather, the document evidences that Iqbal invites Days to

help develop office policies to facilitate “taking such cases.” (cited by Defendant as Ex. A to Def.’s Mot. at 357 [Ex. A is separately numbered in the lower right corner of each page in red type, but oddly it is not numbered sequentially, nor do these numbers reflect a party’s Bates numbering of documents produced during discovery]). [3] The second document cited to references a second occasion that Days took money from CAIR clients, which took place in November 2007, and on this occasion Days describes what he terms a “stern verbal reprimand.” As set out below in detail, Iqbal and Defendant CAIR attempted to cover-up the fact that Iqbal had actually discovered that Days had taken money from clients as early as July 2007 and that Iqbal had taken no measures to protect CAIR’s clients from such abuse in the future. This led to the discovery of Days taking money from other clients yet again in November 2007, resulting in nothing more than a “warning” at best, but no actual measures to protect CAIR’s clients from such abuse. Ultimately, things began to unravel in February 2008 when it became clear that Days was simply not carrying out his tasks as a CAIR lawyer, and the client complaints could no longer be ignored. The reaction, however, was for CAIR-VA and Defendant CAIR to attempt to recast the facts and to bury the problem with Days, almost literally given his terminal illness and death soon to follow. (Pls.’ Facts at ¶¶ 107-134). Finally, [4] as set out below, Iqbal kept CAIR-VA’s board almost entirely in the dark about Days’ fraudulent ways until the unraveling in February 2008. (Pls.’ Facts at ¶ 104).

32. Defendant’s Statement: During Iqbal’s time as CAIR-VA’s executive director, CAIR employed Iqbal as its Director of Operations. His role as Defendant CAIR’s director of operations was distinct from his role as CAIR-VA’s executive director. At Defendant CAIR, Iqbal was responsible for duties such as “the HR,” “the building maintenance,” and “receiving applications” from individuals who wanted authorization to use CAIR’s marks. At some point in

2006, Iqbal began volunteering for CAIR-VA, in part “as a donation from CAIR”, to assist CAIR-VA in continuing its activities.

Plaintiffs’ Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] While the testimony sets out that Iqbal was director of operations of Defendant CAIR, it also establishes that his responsibilities included overseeing the application process for opening new chapters and for supervising their activities as chapters of Defendant CAIR; and it establishes that he served in this role *for Defendant CAIR* relating to the CAIR-VA chapter. (Pls.’ Facts, at ¶¶ 87-105). [2] The testimony does not evidence that Iqbal’s dual roles at Defendant CAIR and its CAIR-VA chapter were distinct or unrelated. In fact, the Jaka testimony cited by Defendant’s statement evidences the exact opposite: that Iqbal was provided by Defendant CAIR, acting as the national and controlling organization, in an effort to get CAIR-VA to determine if and when it should be closed down by Defendant CAIR. Iqbal was paid for his services by Defendant CAIR, never by the CAIR-VA chapter. Indeed, the first document cited by Defendant’s statement (Ex. G to Def.’s Mot.) includes an email response from Parvez Ahmed, who served as Defendant CAIR’s chairman at the time. This email makes clear that Iqbal was serving as an executive director to CAIR-VA at Defendant CAIR’s pleasure and that Defendant CAIR considered Iqbal’s full-time services as a valuable contribution to CAIR-VA. In addition, Defendant CAIR’s chairman makes clear that Defendant CAIR had the authority to close CAIR-VA and indeed could have done so in 2005. Even more telling, Ahmed states that the only reason Defendant CAIR did not shut down CAIR-VA is that Defendant CAIR did not want to “assume the liability of the ‘mistakes’” of CAIR-VA. (Ex. G to Def.’s Mot. at 2; *see also* Pls.’ Facts at ¶¶ 100-103).

33. Defendant’s Statement: On June 16, 2006, Iqbal communicated to CAIR-VA’s board that

Days was “interested in working part time [on a] volunteer basis.” To that end, Iqbal arranged for him to attend a “one day training” organized by CAIR.

Plaintiffs’ Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] Iqbal was communicating to the group email for the board of CAIR-VA, but also directly to his superiors at Defendant CAIR, Parvez Ahmed, chairman of CAIR, and Nihad Awad, executive director of Defendant CAIR. [3] The document clearly indicates that Iqbal was running CAIR-VA while he was physically located at Defendant CAIR (“I have arranged for Sr. Iman and Br. Jamil [Morris Days] to come to CAIR National for one day training . . .”). He was also using his Defendant CAIR email address. These facts all belie later assertions by Defendant CAIR that Iqbal’s roles at Defendant CAIR were entirely distinct from his position at CAIR-VA. (*See, e.g.*, Pls.’ Facts at ¶ 32).

34. Defendant’s Statement: The position that Days served for CAIR-VA was not as an attorney. CAIR-VA did not authorize Days to participate directly in adjudicative proceedings.

Plaintiffs’ Statement: Plaintiffs object to this statement as an undisputed fact on two grounds. [1] The Jaka testimony cited to by Defendant’s statement does support the statement at all. Specifically, the Jaka testimony cited to simply states that Jaka, who purportedly served as chairman of the CAIR-VA board during the relevant time period, was asked about Defendant CAIR publications and CAIR-VA publications that held Days out as a CAIR “Resident Attorney” and that praised his legal work on behalf of CAIR clients. At best, Jaka says he did not recall Days being hired as an attorney for CAIR-VA; he certainly did not testify that Days was not hired as an attorney, and the documents he was asked about would have rendered such

testimony simply not credible. (Pls.' Facts at ¶ 104). [2] The Iqbal testimony cited to is self-serving and contradictory—internally and as to the documentary evidence. Thus, when confronted with the numerous CAIR and CAIR-VA publications speaking about and praising the legal work Days was doing, notably in filing lawsuits on behalf of CAIR clients, Iqbal's answer was: "Tell you very frankly, I did not pay much attention to the whole thing. We were so pleased and happy that things happened, I did not go into the details of this." (Ex. C to Def.'s Mot. at 77:16-19; *see also* Pls.' Facts at ¶ 104).

35. Defendant's Statement: In fact, CAIR-VA required all clients to sign a standard CAIR-VA form that made clear that CAIR-VA was not a provider of legal services.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact because it is belied by the evidence in the record and because the testimony by Iqbal cited to in Defendant's statement is only expressing a belief ("I think . . ."). In fact, only Plaintiffs Nur and Saiyed actually signed the document. Moreover, Days never explained the document to these Plaintiffs and had continually explained to all Plaintiffs that he was a "CAIR National" attorney—that is, the document was irrelevant to them. Specifically, the so-called release document Defendant CAIR claims Plaintiff Nur signed is dated December 3, 2007, one month after Days and Defendant CAIR had been retained as Plaintiff Nur's counsel. Saiyed has no recollection even signing the document and Days continually represented to Saiyed that Days and Defendant CAIR were representing him. In fact, Days sent several letters as Saiyed's counsel to various third parties on CAIR's letterhead after the date of the so-called "release." (Ex. A to Def.'s Mot. at 424, 485; Nur Decl. at ¶¶ 1-4, 13-16 at Ex. D; Saiyed Decl. at ¶¶ 2-8 at Ex. E).

36. Defendant's Statement: On August 10, 2006, CAIR-VA's board "unanimous[ly] approv[ed]" a salary of "\$2000 a month" for Days to continue his work for CAIR-VA. Around

April 11, 2007, CAIR-VA increased Days' salary "from \$24,000 a year to \$28,000 a year." And on September 23, 2007, CAIR-VA's board increased his pay to \$32,000.

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they do not evidence actual payments to Days but rather a purported recording of decisions by the CAIR-VA board.

37. Defendant's Statement: As reflected on the IRS Form 1099-MISC that CAIR-VA issued Days, CAIR-VA paid him \$7,050 in 2006. In 2007, CAIR-VA paid Days \$28, 833.33. In 2008, CAIR-VA paid Days \$2666.67.

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they evidence only the amounts CAIR-VA reported as paid to Days.

38. Defendant's Statement: As an independent contractor for CAIR-VA, Days helped design and execute CAIR-VA's programming.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The documents cited to subsequently are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] the characterization of "independent contractor" is a legal characterization based upon the facts and not determined by the self-serving description by Defendant CAIR or CAIR-VA or by the fact

that CAIR-VA paid Days' salary and reported it to the IRS on IRS Form 1099-MISC. The facts evidence indisputably that Days was a paid employee of CAIR-VA and an agent of both Defendant CAIR and CAIR-VA. (Pls.' Facts at ¶¶ 81-111).

39. Defendant's Statement: For example, Days helped coordinate registration for a CAIR-VA-organized "Discrimination and Mediation Workshop" hosted at CAIR-VA's offices. Days implemented what he called a "Legal Literacy Project" that involved workshops and seminars, including an "Introduction to the American Legal System." He retained the commitment of attorneys to participate in his "Free Legal Clinic Project" and helped devise marketing materials for CAIR-VA.

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] the documents and the other facts in the record establish that Days was an employee-agent of CAIR-VA and an agent of Defendant CAIR. (Pls.' Facts at ¶¶ 81-111).

40. Defendant's Statement: Days was directed by Iqbal not to "file lawsuits" or "take money from clients."

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed statement of fact for the reasons set forth below at ¶¶ 112-113. (Pls.' Facts at ¶¶ 112-113).

41. Defendant's Statement: On February 5, 2008, Iqbal met with a family that had paid \$9,000 to Days for legal services he did not provide. Upon learning this, Iqbal sent Days an email directing him to appear at CAIR-VA's office "to hear answers to these allegations," "to find out if this was your personal case or [a] CAIR case," to review receipts of "fees or court

expenses” if the money was used for those purposes, and to facilitate an immediate return of “all the left over money” to the family.

Plaintiffs’ Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they further evidence Iqbal’s ongoing involvement in Days’ fraud, the fact that Iqbal understood he had to communicate directly with Defendant CAIR (via its executive director Nihad Awad) before terminating Days if that decision was taken by CAIR-VA, and that Iqbal expressed no surprise that Days was filing lawsuits for CAIR clients—his purported surprise was for taking funds from CAIR clients.

42. Defendant’s Statement: Also on February 5, 2008, Iqbal informed Jaka, the CAIR-VA board chairman that Iqbal had discovered Days’s theft. In his communication to Jaka, Iqbal requested assistance from Jaka on how to discipline Days. Jaka directed Iqbal to have the family’s money returned to them.

Plaintiffs’ Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] Plaintiffs’ object to Defendant’s evidentiary characterization of these documents for the reasons set forth below at ¶ 41. (Pls.’ Facts at ¶ 41).

43. Defendant’s Statement: Iqbal set up a meeting with Days that was to take place on February 6, 2008. When Days did not appear for the meeting, Iqbal requested CAIR-VA “board

approval to write a check for \$3500 to the family” that had paid Days.

Plaintiffs’ Statement: Plaintiffs do not object to this statement as an undisputed fact but object to the citation to the document as evidence of this statement on the following grounds: the document cited to is presented without foundation or authentication and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and inadmissible.

44. Defendant’s Statement: On February 7, 2008, Days came to CAIR-VA’s office for a meeting with the family who paid him money and Iqbal. Days “agreed to return \$3,000 in two payments” but disputed some of the payments the family told Iqbal they made to Days. Days wrote two personal checks to CAIR-VA totaling \$3,000. Those checks were returned to CAIR-VA due to Days’s account having insufficient funds.

Plaintiffs’ Statement: Plaintiffs do not object to these statements as undisputed facts but object to the citation of the documents as evidence of this statement on the following grounds: the documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible.

45. Defendant’s Statement: On February 10, 2008, Iqbal sent an update via email to CAIR-VA’s board regarding a meeting that Iqbal and Ahmed had with the family that had alleged that they paid Days for legal services that he did not perform. Iqbal’s email relayed information he received from a CAIR-VA volunteer about “additional clients who were asked by [Days] to pay him money.” Because of this new information, Iqbal and Ahmed (sic) spent that evening “going through [Days’s] papers and client files trying to assess the extent” of Days’ misconduct.”

Plaintiffs’ Statement: Plaintiffs object to these statements as undisputed facts on the following grounds: [1] the documents cited to are presented without foundation or authentication and [2] to the extent that these documents are cited for the truth of the matter asserted, they are

hearsay and inadmissible. Moreover, [3] Plaintiffs have misquoted the documents. Iqbal did not write that he and Ahmad (an attorney and CAIR-VA board member at the time) were “trying to assess the extent” of Days’ misconduct” (sic), but rather “trying to assess the extent of work involved in cleaning up the mess.” (Ex. A to Def.’s Mot. at 085). In fact, as set out below, “cleaning up the mess” had nothing to do with reaching out to Plaintiffs or other CAIR victims but how best to cover-up the fraud. (Pls.’ Facts at ¶¶ 107-134).

46. Defendant’s Statement: After CAIR-VA board members conferred via electronic mail, the board also held a telephonic conference call. Following these discussion, CAIR-VA’s board made the decision that Days “should be dismissed immediately.” Around the same time, CAIR-VA’s board decided to review “all civil rights cases” to determine if the matters are “transferrable, closed, or referable”, in an effort to investigate the extent of Days’ misconduct and mitigate its negative impact.

Plaintiffs’ Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they evidence, along with the entirety of the factual record, a conspiracy to cover-up Days’ fraud in an effort to avoid CAIR-Va’s and Defendant CAIR’s liability. (Pls.’ Facts at ¶¶ 107-134).

47. Defendant’s Statement: On February 11, 2008, Iqbal communicated to Days that CAIR-VA had terminated its relationship with him as of February 10, 2008. Iqbal provided Days a “Termination Notification” which Days received and signed when he arrived at CAIR-VA’s office that morning. CAIR-VA terminated Days subsequent to determining that Days had “on more than one occasion taken money from CAIR clients” in violation of CAIR-VA policy. On

the morning of Days' termination, he admitted to Iqbal that he had taken money from clients on multiple occasions.

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they evidence, along with the entirety of the factual record, a conspiracy to cover-up Days' fraud in an effort to avoid CAIR-Va's and Defendant CAIR's liability. (Pls.' Facts at ¶¶ 107-134).

48. Defendant's Statement: Within 3 hours of Days's termination, in an effort to sever Days's access to CAIR-VA and the constituents it served, Iqbal changed the office locks, requested approval from CAIR-VA's board to change CAIR-VA's answering message to indicate to CAIR-VA's callers that Days "no longer work[s] as a contractor for" CAIR-VA, directed the removal of Days from CAIR-VA's electronic mail and database systems.

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they evidence, along with the entirety of the factual record, a conspiracy to cover-up Days' fraud in an effort to avoid CAIR-Va's and Defendant CAIR's liability. (Pls.' Facts at ¶¶ 107-134).

49. Defendant's Statement: On February 11, 2008, Iqbal notified Tahra Goraya, CAIR's national director, that CAIR-VA "recently found out that [Days] took some money from [a] few clients" and lied to the CAIR-VA's clients "without anyone's knowledge and against the written and posted office policies." He explained that CAIR-VA's "board had...decided to fire [Days]"

and that he was going to notify Days of the CAIR-VA board's decision to terminate him. Later that same day, Iqbal requested that CAIR send personnel to CAIR-VA's offices to provide assistance and advice "on how to proceed." CAIR agreed to send personnel to assist CAIR-VA. On February 28, 2008, Iqbal thanked CAIR personnel for their "support to our chapter in this difficult time."

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they evidence, along with the entirety of the factual record, a conspiracy to cover-up Days' fraud in an effort to avoid CAIR-Va's and Defendant CAIR's liability. (Pls.' Facts at ¶¶ 107-134).

50. Defendant's Statement: Even though "there was nothing in [Days's] files to show" who paid Days money, CAIR-VA sent written notice of Days's termination to all persons it believed may have been potential victims of Days.

Plaintiffs' Statement: Plaintiffs object to this statement as undisputed fact in that the testimony cited is based upon hearsay testimony from Defendant CAIR's Rule 30(b)(6) deponent (Khadija Athman) about what Iqbal told her CAIR-VA had done. Moreover, Athman's testimony about what she thought had been done by others based upon hearsay is patently false. (Pls. Facts at ¶¶ 119-134).

51. Defendant's Statement: In addition to advising recipients that "Days' association with [CAIR-VA] was terminated," the notification advised recipients to "look for an alternate source to pursue [their] case." To facilitate that search, CAIR-VA presented a list of three area attorneys who "agreed to provide discounted services for those who have opened cases" with

CAIR-VA. CAIR-VA sent out approximately 43 such letters.

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they are contradicted by the deposition testimony of Defendant CAIR's witnesses. (Pls. Facts at ¶¶ 119-134).

52. Defendant's Statement: By February 19, 2008, Iqbal's investigation of Days's misconduct had produced a list of 17 individuals who, in total, may have paid Days \$18,235. These payments were made directly to Days, either in cash or via check payable to Days personally. CAIR-VA did not receive any benefit from Days's fraud.

Plaintiffs' Statement: Plaintiffs object to this statement as undisputed fact in that the testimony cited is based upon hearsay testimony from Iqbal about what others told Iqbal since he does not claim to have been present during any payments by CAIR clients to Days. Moreover, Iqbal and Defendant CAIR expressly testified that the only way they found out about the CAIR victim-clients who had paid Days legal fees was if these victim-clients called to complain. (Pls. Facts at ¶¶ 119-134). Finally, CAIR-VA and Defendant Days benefitted tremendously from Days's fraud by representing to the public on Defendant CAIR's web site that Days was Defendant CAIR's Resident Attorney in Herndon, Virginia, purportedly accomplishing extraordinary litigation results and using those web site pages to solicit donations. (Athman Dep. at 5:21-8:5 at Ex. 2 to Yerushalmi Decl. at Ex. A; Pls.' Dep. Exs. 8 and 14 [referenced in Athman Dep.] at Exs 19-20, respectively, to Yerushalmi Decl. at Ex. A).

53. Defendant's Statement: As Iqbal conducted a review of the matters for which individuals who contacted CAIR-VA sought assistance, CAIR employees suggested that Iqbal have a

meeting with Days to “discuss what actions if any he [had] taken on the immigration cases that he accepted money for.” As of February 21, 2008, CAIR-VA’s board and executive director as well as CAIR’s staff did not know “if [Days] provided the services [he claimed he would provide] or not.” Iqbal forwarded CAIR’s suggestion to CAIR-VA’s board and requested his board make a decision on how to proceed.

Plaintiffs’ Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they evidence a conspiracy to cover-up Days’ fraud in an effort to avoid CAIR-Va’s and Defendant CAIR’s liability. (Pls. Facts at ¶¶ 119-134).

54. Defendant’s Statement: In light of Days’ misconduct in his role with CAIR-VA, CAIR froze “all financial transactions between [CAIR] and [CAIR-VA] (sic) and “strongly suggest[ed] a hiring freeze until the two boards [of CAIR and CAIR-VA] have met.”

Plaintiffs’ Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] it evidences the conspiracy between Defendant CAIR and CAIR-VA. Moreover, notwithstanding Defendant CAIR’s self-serving instructions (“We must do our due diligence by meeting with each client to not only learn about the status of the case but also explain what we may or may not be able to offer.” (Ex. A to Def.’s Mot. at 417)), no such “due diligence” was conducted by Defendant CAIR’s counsel, Al-Khalili, or anyone else from Defendant CAIR or CAIR-VA. (Pls. Facts at ¶¶ 119-134).

55. Defendant's Statement: Pursuant to CAIR-VA's request for assistance from CAIR, CAIR read through files provided by CAIR-VA and initially identified 20 individuals who contacted CAIR-VA for help to whom CAIR could potentially provide assistance.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] it does not provide evidence for this statement, and the overwhelming evidence demonstrates that neither Defendant CAIR nor CAIR-VA engaged in any effort to identify victims of the Days' fraud other than in an effort to cover-up and conceal the fraud from the CAIR victim-clients. (Pls.' Facts at ¶¶ 107-134

56. Defendant's Statement: Later, CAIR-VA transferred all of its civil rights cases to CAIR "because [CAIR-VA] did not have any civil rights department anymore and we didn't want them to be left in the cold. So we wanted CAIR National to help us out, to take care of it."

Plaintiffs' Statement: Plaintiffs object to this statement as undisputed fact because it ignores Iqbal's other testimony and the testimony of Defendant CAIR, which establishes that Defendant CAIR took possession of the victim-clients' legal files, including legal files belonging to Plaintiffs, without seeking authorization from Plaintiffs or the other victim-clients because Defendant CAIR understood that Days was their agent and his fraud exposed Defendant CAIR to liability, and in an effort to further the fraudulent conspiracy. (Pls. Facts at ¶¶ 119-134).

57. Defendant's Statement: CAIR did not agree wholesale to represent or otherwise provide services to such individuals. Rather, CAIR took possession of the documentation that CAIR-VA had collected on such individuals and sought to have discussions with them for the purpose of providing them with assistance.

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] it does not evidence the terms by which Defendant CAIR took possession of the victim-clients' legal files, nor does it evidence the legal obligations of Defendant CAIR toward the victim-clients. And, [3] the document is purportedly a single missive to a single anonymous party evidencing nothing relevant to Defendant's statement.

58. Defendant's Statement: On March 5, 2008, after CAIR and CAIR-VA began to suspect that Days may not have been a licensed attorney, Nadhira Al-Khalili, CAIR's in-house counsel, contacted Temple University to inquire whether Days had graduated from law school there, as he claimed.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and inadmissible. And, to the extent this document is admissible, [2] it evidences nothing about the state of mind of Defendant CAIR's lawyer, Al-Khalili, or that Al-Khalili contacted anyone at Temple University.

59. Defendant's Statement: Temple University indicated that they had no records of Days having attended at any time.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact because the testimony cited to exists neither in Defendant's filing nor anywhere in the record. In fact, Athman, as CAIR's Rule 30(b)(6) deponent, testified she had no idea what was learned, if

anything, from Temple University. (Athman Dep. at 56:25-57:12 at Ex. 1 to Yerushalmi Decl. at Ex. A).

60. Defendant's Statement: A CAIR-VA board member also made inquiries that contributed to CAIR and CAIR-VA reaching the conclusion that Days was not actually an attorney.

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact because it represents inadmissible hearsay about what others may or may not have told Iqbal.

61. Defendant's Statement: On March 11, 2008, Iqbal confronted Days when he was hospitalized. Days "was apologetic for what he did."

Plaintiffs' Statement: Plaintiffs object to this statement as an undisputed fact on several grounds: the document cited to is presented without foundation or authentication, and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and inadmissible.

62. Defendant's Statement: To memorialize and document Days's misconduct, CAIR and CAIR-VA drafted an affidavit that Days signed before a notary public. In this affidavit, Days admitted that, at the time CAIR-VA hired him, he understood that his position "did not require a law degree and a license to practice law," that he took money from individuals who contacted CAIR-VA "for his own personal enrichment," and that he did this in a "clandestine manner" knowing that he was violating CAIR-VA's "written and posted policy which was known and understood" that forbade him from "asking for or accepting any type of payment." Days also agreed to indemnify "any CAIR entity" that gets "sued as a result of [Days'] actions."

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed fact on several grounds: [1] The document cited to is presented without foundation or authentication and to the extent that this document is cited for the truth of the matter asserted, it is hearsay and

inadmissible. And, to the extent this document is admissible, [2] it is a transparent part of the Defendant's conspiracy to cover-up and to avoid responsibility for the wrongful conduct of Days, CAIR-VA, and Defendant CAIR insofar as the material facts stated therein are demonstrably false. (*See* Pls.' Facts at ¶¶ 107-134)

63. Defendant's Statement: Two weeks later, on March 19, 2008, Ms. Al-Khalili filed a "Complaint of the Unauthorized Practice of Law" with the Virginia State Bar, detailing Days's fraudulent and unauthorized representations to individuals who had contacted CAIR-VA with Days' affidavit attached. On April 4, 2008, the Virginia State Bar concluded that Days had "engaged in the unauthorized practice of law" by "accept[ing] payment for [his] services under false pretenses when [he] was not licensed to practice law." However, because the Virginia State Bar determined that Days was "living in a nursing home suffering from deteriorating health conditions associated with his lung transplants" and that his "prognosis was terminal," it "determined not to pursue criminal prosecution" against Days.

Plaintiffs' Statement: Plaintiffs object to these statements as undisputed facts on several grounds: [1] The documents cited to are presented without foundation or authentication and to the extent that these documents are cited for the truth of the matter asserted, they are hearsay and inadmissible. And, to the extent these documents are admissible, [2] they evidence that Defendant CAIR knew of the full extent of Days' fraud in March 2008, and in its continuing fraud and breach of fiduciary duty to Plaintiffs and the other CAIR victim-clients, it made no public or private statement to Plaintiffs or the other CAIR victim-clients to disclose these facts. Instead, Defendant CAIR issued public and private statements that were false and intended to misrepresent the facts to Plaintiffs' detriment. (*See* Pls.' Facts at ¶¶ 107-134)⁴

⁴ The remainder of Defendant's "Statement of Undisputed Facts" relate to each of the Plaintiffs

PLAINTIFFS' STATEMENT OF ISSUES AND UNDISPUTED FACTS

ISSUE 1: Morris Days defrauded Plaintiffs by representing himself to Plaintiffs as an attorney qualified to handle their respective legal matters.

Undisputed Factual Record Supporting Issue 1:

64. **Plaintiffs' Statement:** Days represented to each Plaintiff that he was a lawyer working for Defendant CAIR and that he would represent them in handling their respective legal matters.

Record: Nur. Dep. at 148:8-150:21 at Ex. 12 to Yerushalmi Decl. at Ex. A; Turner Dep. at 12:22-25:5; 27:22-28:16; 170:9-176:20 at Ex. 10 to Yerushalmi Decl. at Ex. A; Lopez Dep. at 92:17-93:19 at Ex. 9 to Yerushalmi Decl. at Ex. A; Abdussalaam Dep. at 39:20-42:12; 159:19-162:13 at Ex. 13 to Yerushalmi Decl. at Ex. A; Saiyed Dep. at 12:13-14:2; 50:25-52:24; 56:4-12; 58:12-19; 151:20-152:12; 155:7-156:17; 157:22-158:10; 189:15-192:15 at Ex. 11 to Yerushalmi Decl. at Ex. A; Def.'s Mot. at 5, 33-35; Iqbal Dep. at 68:25-69:8 at Ex. 3 to Yerushalmi Decl. at Ex. A; Pls.' Dep. Ex. 13 [referenced in Iqbal Dep.] at Ex. 21 to Yerushalmi Decl. at Ex. A.

65. **Plaintiffs' Statement:** Plaintiffs reasonably relied upon Days' representations that he was a *bona fide* lawyer and that he would properly handle their respective legal matters.

Record: Pls.' Facts at ¶¶ 35, 64; Def.'s Mot. at 5; 33-35.

66. **Plaintiffs' Statement:** Plaintiffs thereafter confided in Days and relied upon him to responsibly handle their respective legal matters.

Record: Nur Dep. at 49:10-53:21; 72:7-73:15; 75:20-84:17; 148:8-150:21 at Ex. 12 to Yerushalmi Decl. at Ex. A; Lopez Dep. at 92:17-93:19 at Ex. 9 to Yerushalmi Decl. at Ex. A;

and their specific underlying legal case for which Morris Days and CAIR were retained. (Def.'s Mot. at 19-32). As set forth in Plaintiffs' accompanying Memorandum of Points and Authorities, Defendant's factual rendition of these underlying legal matters is entirely irrelevant to this litigation and are not addressed herein. (*See* Pls.' Mem. at § II.B.3). Any specific issues or facts from this portion of Defendant's "Statement of Undisputed Facts" that need to be rebutted will be included in the section that follows.

Turner Dep. at 9:24-27:19; 34:2-36:1; 170:9-176:20 at Ex. 10 to Yerushalmi Decl. at Ex. A; Abdussalaam Dep. at 39:20-44:12; 48:14-20; 59:8-68:21; 80:9-81:5; 86:20-92:10; 94-2-14; 97:7-98:11; 121:15-122:21; 159:19-162:13 at Ex. 13 to Yerushalmi Decl. at Ex. A; Saiyed Dep. at 12:13-14:2; 50:25-52:24; 56:4-12; 58:12-19; 151:20-152:12; 155:7-156:17; 157:22-158:10; 189:15-192:15 at Ex. 11 to Yerushalmi Decl. at Ex. A; Turner Decl.” at ¶¶ 1-13 at Ex. B; Saiyed Decl. at ¶¶ 1-20 at Ex. E; Abdussalaam Decl. at ¶¶ 1-20 at Ex. C; Nur Decl. at ¶¶ 1-32. at Ex. D.

67. Plaintiffs’ Statement: Days was not an attorney and he did not provide legal representation for Plaintiffs’ respective legal matters.

Record: Def.’s Mot. at 5; 18-19; *see also* Turner Decl. at ¶¶ 1-26 at Ex. B; Saiyed Decl. at ¶¶ 1-36 at Ex. E; Abdussalaam Decl. at ¶¶ 1-36 at Ex. C; Nur Decl. at ¶¶ 1-35. at Ex. D.

68. Plaintiffs’ Statement: Days took monies for fraudulent legal services from Plaintiffs Lopez, Turner, Abdussalaam, and Saiyed. Days took the monies from Plaintiffs Lopez, Turner, and Abdussalaam prior to July 2007. None of the Plaintiffs visited Days at his office after September 2007.

Record: Turner Decl. at ¶¶ 1-10 at Ex. B; Saiyed Decl. at ¶¶ 1-18 at Ex. E; Abdussalaam Decl. at ¶¶ 1-13 at Ex. C; Def.’s Mot. at 22; 24; 32.

69. Plaintiffs’ Statement: Plaintiff Nur was terminated from her job as a direct result of Days’ fraudulent legal advice.

Record: Nur Dep. at 47:22-116:25 at Ex. 12 to Yerushalmi Decl. at Ex. A; Nur Decl. at ¶¶ 1-27 at Ex. D; Def.’s Mot. at 26-30.

70. Plaintiffs’ Statement: As a direct result of Days’ fraudulent advice, Plaintiff Nur was forced to move to North Carolina with her family to find employment.

Record: Pls.’ Facts at ¶ 69; Nur Decl. at ¶¶ 1-27 at Ex. D; Def.’s Mot. at 26-30.

71. Plaintiffs' Statement: Days' actions violate the Virginia Consumer Protection Act.

Record: Pls.' Facts at ¶¶ 64-70; Def.'s Mot. at 5; 15-19; *see* Am. Compl. at ¶¶ 98-109

[Doc. No. 3, Lead Case].

72. Plaintiffs' Statement: Days' actions amount to common law fraud in the Commonwealth of Virginia.

Record: Pls.' Facts at ¶¶ 64-70; Def.'s Mot. at 5; 15-19; *see* Am. Compl. at ¶¶ 110-15

[Doc. No. 3, Lead Case].

73. Plaintiffs' Statement: Days was a fiduciary to each of the Plaintiffs for the purpose of handling their respective legal matters.

Record: Pls.' Facts at ¶¶ 64-70.

74. Plaintiffs' Statement: Days' actions violated fiduciary duties he owed to each of the Plaintiffs.

Record: Pls.' Facts at ¶¶ 64-70; *see* Am. Compl. at ¶¶ 116-23 [Doc. No. 3, Lead Case].

75. Plaintiffs' Statement: In addition to Plaintiffs' out-of-pocket damages caused as a result of Days' liability to Plaintiffs for statutory and common law fraud and breach of fiduciary duty, Days' proximately caused Plaintiffs severe emotional distress, which has resulted in clinically diagnosed psychological disorders, including clinical depression.

Record: Kimball Decl. at ¶¶ 6-7 at Ex. F.

76. Plaintiffs' Statement: In addition to the severe emotional distress set out in ¶ 75 above, Plaintiff Saiyed also suffered as a result of Days' and Defendant CAIR's conduct as follows:

I am a changed man and for the worse. While I always worried that people might take advantage of me, the affair with CAIR broke me completely. The one thing I had relied upon in my life was my faith and my co-Muslims. CAIR not only represented itself as Muslim, but as the nation's premier civil rights law firm to defend Muslims. Instead, they defrauded me and then cheated me afterward. I am depressed, my relationship with Nora, my long-time companion, has been

damaged at the core. I suffer from sleeplessness, nightmares, anger rages, depression, gastrointestinal problems related to stress, and impotence, all relating to the stress I have suffered as a result of this affair.

Record: Saiyed's Answer to Interrog No. 11 at Ex. 16 to Yerushalmi Decl. at Ex. A; Saiyed Dep. at 63:22-89:6 at Ex. 8 to Yerushalmi Decl. at Ex. A.

77. Plaintiffs' Statement: In addition to the severe emotional distress set out in ¶ 75 above, Plaintiff Lopez also suffered as a result of Days' and Defendant CAIR's conduct as follows:

From the time I learned that Aquilla [Plaintiff Turner] and I had been defrauded and that my immigration status was in jeopardy, my life collapsed. Aquilla, my life's mate, and a rock of stability, seem to fall apart from the stress. I myself suffered from severe depression over the fact that I had been living a lie since the day I walked into CAIR. Planning my life with Aquilla was now about just surviving and not being deported. I began to drink after having been sober for some time and this negatively affected my life and my relationship with Aquilla. The stress from the lie I had been living based upon CAIR's fraud made me angry and I lashed out at everyone when I was not withdrawing into the solitude of my own sadness. I have trouble sleeping and live in fear every day all day.

Record: Lopez's Answer to Interrog. No. 9 at Ex. 14 to Yerushalmi Dec. at Ex. A; Lopez Dep. at 55:18-64:5 at Ex. 9 to Yerushalmi Decl. at Ex. A.

78. Plaintiffs' Statement: In addition to the severe emotional distress set out in ¶ 75 above, Plaintiff Turner also suffered as a result of Days' and Defendant CAIR's conduct as follows:

From the time I learned that Mr. Lopez and I had been defrauded and that Mr. Lopez's immigration status was in jeopardy, my life collapsed. Mr. Lopez is the center of my life and it was my responsibility to find him good legal counsel. I had failed him. All of my life I have worked very hard, typically 18 hours a day. After this event, I became severely depressed and could not get out of bed for days and when I was up and about I was depressed and without energy. I worried tremendously about Mr. Lopez's immigration status and what my estranged husband might do if he returned while we were still married. My relationship with Mr. Lopez deteriorated both because I was not able to handle the situation but also because he began drinking, a problem he had overcome before this event. My relationships with my friends and employers suffered tremendously. I also had trouble breathing at times and was forced to self-medicate because I could not afford a doctor.

Record: Turner's Answer to Interrog. No. 9 at Ex. 15 to Yerushalmi Decl. at Ex. A;

Turner Dep. at 85:1-115:1 at Ex. 10 to Yerushalmi Decl. at Ex. A.

79. Plaintiffs' Statement: In addition to the severe emotional distress set out in ¶ 75 above, Plaintiff Abdussalaam also suffered as a result of Days' and Defendant CAIR's conduct as follows:

I was devastated by this fraudulent conduct, carried out by CAIR and then covered up by CAIR. Prior to this event, I had good relationships with family and friends and other than my discrimination case cited in the First Amended Complaint, had good work relationships. After this event, I have suffered depression, I am withdrawn, suspicious of others, and I have trouble maintaining good work relations. This affair exhausted me emotionally and I terminated my relationship at a hospital I worked at for six years. I have trouble sleeping, I eat more than ever before as a way to deal with the stress, and I am tense with my family. I become angry or suspicious without warning and without control. My relationship with my wife and children has deteriorated tremendously because of this event. My religious faith and faith in other Muslims has been badly impacted as a result of placing my trust in CAIR and being defrauded this way. I had enrolled in a paralegal course as a result of my interaction with Days and CAIR but when I discovered how they had defrauded me, I dropped out unable to deal with the situation. Because of my financial situation and my embarrassment and humiliation over this affair, I have not sought medical or psychological counseling. I am trying desperately to deal with this myself and to provide for my family. I have spoken to a psychologist who might be identified as an expert for trial. My attorney will provide this information as required.

Record: Abdussalaam's Answer to Interrog. No. 11 at Ex. 17 to Yerushalmi Decl. at Ex. A; Abdussalaam Dep. at 140:16-141:18; 143:19-145:20; 150:19-153:4; 164:23-166:22 at Ex. 10 to Yerushalmi Decl. at Ex. A.

80. Plaintiffs' Statement: In addition to the severe emotional distress set out in ¶ 75 above, Plaintiff Nur also suffered as a result of Days' and Defendant CAIR's conduct as follows:

From the time I was forced to leave Virginia, my life has been turned upside down. I have suffered physical ailments as a result of the stress, including constant headaches so severe I must take prescription pain killers. I have received medical care for joint inflammation relating to the stress arising from this nightmare. I have been depressed, and this has caused serious problems with my husband, children, family and friends. I have trouble trusting anyone outside of my insular community. My children have suffered as a direct result of the move and from watching their mother and father go through this horrible affair and this

in turn has caused me great pain and suffering. My husband has also suffered because of the loss of his business in Virginia and has suffered emotionally and physically as a result. His suffering has caused me additional pain and suffering.

Record: Nur's Answer to Interrog. No. 13 at Ex. 18 to Yerushalmi Decl. at Ex. A; Nur Dep. at 151:13-154:9 at Ex. 9 to Yerushalmi Decl. at Ex. A.

ISSUE 2: Morris Days' tortious conduct described above (§§ 64-80), was as an agent of Defendant CAIR and/or as an agent/employee of CAIR-VA, which in turn was an agent of Defendant CAIR. As such, Defendant CAIR is liable for all of the tortious conduct of Days via the doctrine of *respondeat superior*.

Undisputed Factual Record Supporting Issue 2:

Sub-Issue 2(a): Morris Days consented to act as an agent-attorney working on behalf of Defendant CAIR.

81. Plaintiffs' Statement: Days represented to each of the Plaintiffs that he worked as an attorney on behalf of Defendant CAIR and that he would be representing each of the Plaintiffs as an attorney of Defendant CAIR.

Record: Pls.' Facts at ¶ 64.

Sub-Issue 2(b): Defendant CAIR consented to have Days act as an agent-attorney working on behalf of Defendant CAIR.

82. Plaintiffs' Statement: Defendant CAIR represented to the public via its web site that Days was acting as a "CAIR" attorney.

Record: . Athman Dep. at 5:21-8:5 at Ex. 2 to Yerushalmi Decl. at Ex. A; Pls.' Dep. Exs. 8 and 14 [referenced in Athman Dep.] at Exs 19-20, respectively, to Yerushalmi Decl. at Ex. A; Turner Decl. at ¶ 12 at Ex. B.

83. Plaintiffs' Statement: Defendant CAIR represented to the public that Days was a CAIR

attorney and that he successfully filed a petition on behalf of a CAIR client for immigration matters and that CAIR had filed 22 other lawsuits against various government agencies, which read in pertinent part:

“We petitioned the courts and they’ve had a change of heart,” said CAIR’s Morris Days.

This year CAIR filed 22 lawsuits in federal court against the FBI, the Department of Homeland Security, and other agencies on behalf of Muslim immigrants stuck in limbo.

Plaintiffs Abdussalaam, Lopez, Turner, and Saiyed relied upon this publication to retain Days and Defendant CAIR as their legal counsel.

Record: Athman Dep. at 5:21-8:5 at Ex. 2 to Yerushalmi Decl. at Ex. A; Pls.’ Dep. Exs. 8 and 14 [referenced in Athman Dep.] at Exs 19-20, respectively, to Yerushalmi Decl. at Ex. A; Turner Decl. at ¶ 13 at Ex. B; Saiyed Decl. at ¶ 14 at Ex. E.

84. Plaintiffs’ Statement: Defendant CAIR testified that it paid settlements for Days’ bad acts because he was an employee of Defendant CAIR and Defendant CAIR was responsible:

Q: Was there any authority -- strike that. Why would CAIR pay clients of CAIR Virginia and Morris Days moneys in settlement of their dispute with Mr. Days?

A: Like everything else, we were trying to right a wrong that was done by one of our employees, even though it was in -- within his scope to do it.

Record: Athman Dep. at 130:22-131:4 at Ex. 1 to Yerushalmi Decl. at Ex. A.

85. Plaintiffs’ Statement: CAIR-VA advertised itself as part Defendant CAIR as a single nation-wide organization, consisting of 32 chapters and offices nationwide and in Canada:

About Our Organization...

The Council on American-Islamic Relations (CAIR) is a non-profit grassroots organization dedicated to presenting an Islamic perspective on issues of importance to the American public. CAIR is the largest American Muslim civil rights and advocacy organization in the United States, serving the interests of more than seven million American Muslims with 32 chapters and offices nationwide and in Canada.

All Plaintiffs were aware of this publication and relied upon it to retain Days and Defendant CAIR as their legal counsel.

Record: Iqbal Dep. at 68:25-69:8 at Ex. 3 to Yerushalmi Decl. at Ex. A; Pls.’ Dep. Ex. 13 [referenced in Iqbal Dep.] at Ex. 21 to Yerushalmi Decl. at Ex. A; Pls.’ Facts at ¶ 64.

86. CAIR-VA publicly represented that Days was its “Resident Attorney” and “Civil Rights Manager.”

Record: Iqbal Dep. at 68:25-69:8 at Ex. 3 to Yerushalmi Decl. at Ex. A; Pls.’ Dep. Ex. 13 [referenced in Iqbal Dep.] at Ex. 21 to Yerushalmi Decl. at Ex. A.

Sub-Issue 2(c): Defendant CAIR controlled Days through Khalid Iqbal, who served directly as an agent of Defendant CAIR (*i.e.*, as an officer/director of operations) and as an officer/executive director of CAIR-VA, which in turn was an agent of Defendant CAIR.

87. Plaintiffs’ Statement: Iqbal, during all times relevant to this litigation, was an employee-agent of Defendant CAIR, serving as an officer of Defendant CAIR.

Record: Iqbal Dep. at 17:21-24:22; 42:19-44:23 at Ex. 3 to Yerushalmi Decl. at Ex. A.

88. Plaintiffs’ Statement: Iqbal, during all times relevant to this litigation, served as Defendant CAIR’s director of operations.

Record: Pls.’ Facts at ¶ 87.

89. Plaintiffs’ Statement: As director of operations, Iqbal’s duties included supervising the operations of Defendant CAIR’s chapters and offices, including CAIR-VA. All of Days’s legal civil rights cases were inputted into a Defendant CAIR database.

Record: Pls.’ Facts at ¶ 87; Iqbal Dep. at 25:4-25; 34:22-35:25; 94:21-95:14 at Ex. 3 to Yerushalmi Decl. at Ex. A.

90. Plaintiffs’ Statement: Iqbal knew about the CAIR publications that held Days out to the

public as CAIR's "Resident Attorney" and "Civil Rights Manager" at Defendant CAIR's Herndon, Virginia, chapter office, CAIR-VA.

Record: Iqbal Dep. at 68:25-70:22 at Ex. 3 to Yerushalmi Decl. at Ex. A.

91. Plaintiffs' Statement: As director of operations for Defendant CAIR and as executive director of CAIR-VA, Iqbal directly supervised Days as Resident Attorney and Civil Rights Manager at the Herndon, Virginia chapter office. Iqbal supervised Days during his tenure and dealt with the Days' fraud after his termination while wearing both hats simultaneously. There was no division between these two roles. Iqbal, however, was not an attorney.

Record: Pls.' Facts at ¶¶ 87-90; Iqbal Dep. at 17:17-20 at Ex. 3 to Yerushalmi Decl. at Ex. A.

92. Plaintiffs' Statement: On July 30, 2007, Iqbal sent an email to Days asking Days to explain why he took \$390 from a CAIR client. In this email, Iqbal expressed absolutely no surprise or issue with the fact that Days was acting as a CAIR attorney and filing legal papers. Iqbal's only expressed concern was the taking of funds from the client. Iqbal wrote that *he informed the client that he had assumed the money was for legal filing fees* and asked Days to help Iqbal develop a policy for taking such cases. **Iqbal signed the email as "Director of Operations CAIR," which was Iqbal's formal position and title at Defendant CAIR.**

Record: Iqbal Dep. at 23:25-24:22 at Ex. 4 to Yerushalmi Decl. at Ex. A; Pls.' Dep. Ex. No. 16 at 315 (referenced in Iqbal Dep.) at Ex. 22 to Yerushalmi Decl. at Ex. A.

93. Plaintiffs' Statement: Iqbal, as Days' supervisor, not only sent emails during Days' employment, but after Days' termination, he prepared a letter in which he responded to Plaintiff Abdussalaam's inquiries about how his case was proceeding **on Defendant CAIR's letterhead** and identified he was signing the letter as "Acting Director" of CAIR-VA.

Record: Ltr. from Iqbal to Abdussalaam at Ex. 23 to Yerushalmi Decl. at Ex. A.

94. Plaintiffs' Statement: The written office policies, about which Iqbal testified that he posted outside of Days' office, specifically authorized CAIR-VA employees to "[f]ollow [Defendant CAIR] National guidelines for the types of cases we handle." Days was trained for his duties at CAIR-VA by Defendant CAIR National.

Record: Iqbal Dep. at 85:8-86:2; 98:2-99:10 at Ex. 3 to Yerushalmi Decl. at Ex. A; Pls.' Dep. Ex. 3 at 81-82 (referenced in Iqbal Dep.) at Ex. 24 at Yerushalmi Decl. at Ex. A; Pls.' Facts at ¶ 33.

95. Plaintiffs' Statement: Defendant CAIR testified that Defendant CAIR, as CAIR National, provides legal services to the public and that chapters with attorneys on staff also may provide legal services and file lawsuits on behalf of their clients.

Record: Athman Dep. at 91:14-95:7 at Ex. 1 to Yerushalmi Decl. at Ex. A.

96. Plaintiffs' Statement: The written office policies, about which Iqbal testified that he posted outside of Days' office, do not prohibit the filing of lawsuits by Days acting as a CAIR attorney. The policies only state that CAIR-VA does not take money for its work, and that filing fees for such work must be paid by the CAIR client-complainant.

Record: Pls.' Facts at ¶ 94.

97. Plaintiffs' Statement: Iqbal served as executive director of CAIR-VA during all times relevant to this litigation and was simultaneously serving as director of operations of Defendant CAIR.

Record: Iqbal Dep. at 43:5-45:7; 47:1-48:8 at Ex. 3 to Yerushalmi Decl. at Ex. A.

98. Plaintiffs' Statement: During Iqbal's dual service to Defendant CAIR and CAIR-VA, Iqbal was only paid by Defendant CAIR.

Record: Iqbal Dep. at 42:19-43:7 at Ex. 3 to Yerushalmi Decl. at Ex. A.

99. Plaintiffs' Statement: Iqbal became CAIR-VA's executive director to resurrect a moribund CAIR chapter operation in Herndon, Virginia—CAIR-VA. He began in 2006, and when CAIR-VA was closed down in May 2008 after the Days' fraud became public, Iqbal resigned from Defendant CAIR at the same time.

Record: Iqbal Dep. at 39:20-41:21 at Ex. 3 to Yerushalmi Decl. at Ex. A.

100. Plaintiffs' Statement: Parvez Ahmed, who was chairman of Defendant CAIR during all times relevant to this litigation, wrote an email to Rizwan Jaka, the chairman of the board of CAIR-VA in March 2008, a month after Days' termination and two months before CAIR-VA was closed down permanently. In Ahmed's email, he explained to Jaka that Defendant CAIR's commitment to provide \$100,000 funding to CAIR-VA was based on the expectation that CAIR-VA would raise at least that amount for Defendant CAIR. Ahmed noted that Defendant CAIR had paid its portion plus it had contributed Iqbal's salary as an additional grant. In other words, according to Defendant CAIR, Iqbal's "volunteering" as CAIR-VA's executive director was in fact due to Defendant CAIR's salary payments to Iqbal. Iqbal conceded that CAIR-VA could not compete for donations without Defendant CAIR and that was one reason they closed down.

Record: Ahmed Email to Jaka at Ex. 25 to Yerushalmi Decl. at Ex. A; Iqbal Dep. at 163:13-164:4 at Ex. 3 to Yerushalmi Decl. at Ex. A.

101. Plaintiffs' Statement: According to CAIR-VA's non-profit tax returns (*i.e.*, IRS form 990), during Iqbal's tenure at CAIR-VA, Defendant CAIR provided 35% of CAIR-VA's \$106,000 budget in 2006 and 62% of its \$126,555 budget in 2007.

Record: Jaka Dep. at 15:14-20:4 at Ex. 6 to Yerushalmi Decl. at Ex. A; *see also* Ex. A to Def.'s Mot., at 194; 214; 225; 243.

102. Plaintiffs' Statement: In the Ahmed email to Jaka, Ahmed explains that “the only reason” Defendant CAIR did not decide to dissolve CAIR-VA in 2005 (pre-Iqbal) was because Defendant CAIR did not wish to be liable for the “mistakes” of Mowlana, who was running CAIR-VA at the time. Thus, even in 2005, Defendant CAIR understood that it was liable for the bad acts of its “agent” CAIR-VA.

Record: Pls.' Facts at ¶ 100.

103. Plaintiffs' Statement: In the Ahmed email, he also makes it clear that Defendant CAIR reserved the right to dissolve CAIR-VA once those “outstanding issues” had been resolved.

Record: Pls. Facts at ¶ 100.

104. Plaintiffs' Statement: The CAIR-VA board hardly met and was little more than a rubber stamp for Iqbal. The board members had little involvement and paid little attention to Days. Thus, notwithstanding the fact that Iqbal had learned on at least two separate occasions that Days was representing CAIR clients and taking legal fees for doing so—once in July 2007 and once in November 2007—Iqbal did not notify the CAIR-VA board of these fraudulent acts (*i.e.*, per Iqbal's testimony, Days was not authorized to take legal fees from CAIR clients), and, in fact, the CAIR-VA board did not learn of any problem with Days until February 2008 when the fraud forced Days' termination. Moreover, after Iqbal learned that Days had taken legal fees on the first occasion, he sought advice from Days to formulate a policy, not the CAIR-VA board.

Record: Pls.' Facts at ¶¶ 14, 31; Jaka Dep. at 27:17-28:12; 31:15-32:3 at Ex. 5 to Yerushalmi Decl. at Ex. A; Memon Dep. at 15:17-16:24 at Ex. 7 to Yerushalmi Decl. at Ex. A; Ahmad Dep. at 15:17-16:21; 27:14-21 at Ex. 8 to Yerushalmi Decl. at Ex. A.

105. Plaintiffs' Statement: There was no written agreement between Defendant CAIR and CAIR-VA, which allowed CAIR-VAIR to operate as a chapter office of Defendant CAIR or to

use Defendant CAIR's intellectual property, such as the name CAIR and its logo. As such, CAIR-VA operated entirely at the pleasure of Defendant CAIR and at best there was nothing more than an at-will oral agreement. Indeed, at not time during Iqbal's entire tenure at Defendant CAIR as its director of operations in charge of supervising Defendant CAIR's "chapters" was there any written agreements between Defendant CAIR and a chapter office.

Record: Iqbal Dep. at 28:18-30:20; 34:2-35:25 at Ex. 3 to Yerushalmi Decl. at Ex. A.

ISSUE 3: During all times relevant to this litigation, CAIR-VA operated as an alter ego of Defendant CAIR National.

Undisputed Factual Record Supporting Issue 3:

Sub-issue 3(a): Defendant CAIR exercised control over CAIR-VA.

106. Plaintiffs' Statement: Defendant CAIR controlled CAIR-VA during all times relevant to this litigation.

Record: Pls.' Facts at ¶¶ 87-105.

Sub-issue 3(b): Defendant CAIR employed its control over CAIR-VA to conceal a fraud and to avoid liability unjustly.

107. Plaintiffs' Statement: CAIR-VA operated in Virginia under the name "CAIR-Maryland and Virginia" illegally.

Record: Yerushalmi Decl. at ¶¶ 21-22 at Ex. A.

108. Plaintiffs' Statement: CAIR-VA reported Morris Days' salary on IRS form 1099, which is used to report independent contractor income.

Record: Iqbal Dep. at 87:6-89:18 at Ex. 3 to Yerushalmi Decl. at Ex. A; IRS form 1099 at Ex. A to Def.'s Mot. at 76; 78.

109. Plaintiffs' Statement: Iqbal and CAIR-VA's board decided to pay Days as an independent

contractor rather than as an employee without obtaining any legal or tax advice about the propriety of that decision.

Record: Iqbal Dep. at 87:6-89:18 at Ex. 3 to Yerushalmi Decl. at Ex. A; Jaka Dep. at 30:20-32:3 at Ex. 5 to Yerushalmi Decl. at Ex. A.

110. Plaintiffs' Statement: Iqbal testified that he understood that the only reason for paying Days as an independent contractor was to avoid paying the employer contributions.

Record: Pls. Facts at ¶ 109.

111. Plaintiffs' Statement: Defendant CAIR orchestrated the defense of the “independent contractor” title for Morris Days’ work as a CAIR employee-agent to convince Plaintiffs and other CAIR victim-clients that Defendant CAIR and CAIR-VA had no liability for Days’ bad acts. Defendant CAIR utilized this fraudulent scheme to characterize Days as an independent contractor notwithstanding the following facts: Days’ title was as CAIR-VA’s “Resident Attorney” and “Civil Rights Manager”; Defendant CAIR represented to the public that Days was a “CAIR attorney”; CAIR-VA publicly represented that Days was a “Resident Attorney” and “Civil Rights Manager”; Days worked out of the CAIR-VA office; Days worked under the direct supervision and control of Iqbal; Days used CAIR letterheads for his legal work on behalf of CAIR clients; Days was tasked with handling CAIR office mail; Days had his own office within the CAIR-VA office; Days received client calls at the CAIR-VA office; and Days met with CAIR clients at the CAIR-VA office.

Record: Athman Dep. at 57:23-63:21; 66:15-68:17 at Ex. 1 to Yerushalmi Decl. at Ex. A; Pls.’ Dep. Ex. 4 at 105-07 (referenced in Athman Dep.) at Ex.27 to Yerushalmi Decl. at Ex. A; Pls.’ Dep. Ex. 4 at 108-12 (referenced in Athman Dep.) at Ex. 28 to Yerushalmi Decl. at Ex. A; Def.’s Mot. at 14 (describing Days as an “independent contractor”), at 16 (describing voice mail

message CAIR victim-clients would hear when they called CAIR-VA to find out about their cases wherein Days was described as a former “contractor”), at 17 (referencing a letter purportedly sent to 43 clients of Days/CAIR informing them that “Days was working as a contractor”); at 19 (referencing a confession of sorts from Days in the form of an affidavit drafted by employees of Defendant CAIR and CAIR-VA, which itself begins by stating that Days was an independent contractor); Iqbal Dep. at 25:4-26:19 at Ex. 4 to Yerushalmi Decl. at Ex. A; Pls.’ Dep. Ex. 16 at 323 (referenced in Iqbal Dep.) at Ex. 29 to Yerushalmi Decl. at Ex. A.

112. Plaintiffs’ Statement: Iqbal and Defendant CAIR conspired to craft a narrative that prior to the Days affair going public in February 2008, which led to Days’ dismissal, Iqbal had not had any real notice of Days’ fraud because he had only known of one other occasion that Days had improperly taken legal fees—in November 2007. In fact, Iqbal and Defendant CAIR crafted this narrative into the Days’ “confession” noted above. Even more than this, Defendant CAIR’s fraudulent concealment continued even into this litigation. Thus, during Iqbal’s initial testimony in this case in May 2011, he testified that his first and only indication prior to February 2008 that Days had done anything wrong was in November 2007 when Iqbal learned that Days had taken legal fees from a client. Iqbal knew he could testify in this way because he and Defendant CAIR had withheld a critical document in this case—the July 30, 2007, email from Iqbal to Days (Ex. A to Def.’s Mot. at 357). This email evidences that Iqbal had actually learned in July 2007: (1) that Days had taken money from a CAIR client even before this; (2) that Days was acting as an attorney and filing legal documents for CAIR clients; (3) that Iqbal was not troubled by the fact that Days was acting as an attorney on behalf of CAIR clients; (4) that Iqbal did not consider taking legal fees from clients at that time a violation of policy, but only (5) that Days would

work with Iqbal to “develop a policy for taking such cases.” Iqbal only admitted to his earlier false testimony after Defendant CAIR was forced to disclose this July 30, 2007, email to Plaintiffs after several oral and written motions to compel on November 23, 2011. (The request for production of documents, the only one served upon Defendant CAIR, and the subpoena *duces tecum* served upon Iqbal, were served on January 18 and 20, 2011, respectively). When Plaintiffs’ counsel confronted Iqbal with this email during his second deposition in June 2012 (ordered by the Court because Defendant CAIR and Iqbal had withheld documents for production prior to the first deposition in May 2011, without indicating to Plaintiffs at that time that their collective production of documents was deficient), Iqbal was only then forced to admit the truth about the July 30, 2007, email.

Record: See Pls.’ Facts at ¶ 31; Ex. 22 to Yerushalmi Decl. at Ex. A; Iqbal Dep. at 81:25-84:6; 89:19-90:17 at Ex. 3 to Yerushalmi Decl. at Ex. A; *see also* Iqbal Dep. at 23:25-24:22 at Ex. 4 to Yerushalmi Decl. at Ex. A.

113. Plaintiffs’ Statement: Even after Iqbal learned in November 2007 that Days had taken money from a CAIR client for at least the second time, Iqbal testified that he only warned him not to do it again and to return the money and that he did not bother to conduct any further investigation to see if Days had taken legal fees from any yet unknown victim-clients. In fact, Iqbal did not even bother to follow-up and make certain that Days had returned the funds he had taken in November 2007. The narrative that Iqbal, CAIR-VA, or Defendant CAIR were concerned at any time before or after the fraud became public in February 2008 is simply belied by their individual and collective actions.

Record: Iqbal Dep. at 89:19-90:17 at Ex. 3 to Yerushalmi Decl. at Ex. A; Pls.’ Facts at ¶¶ 107-134.

114. Plaintiffs' Statement: Iqbal conducted no due diligence to confirm Days' credentials as a lawyer either before he hired him, or after he learned in July and again in November 2007 that Days had taken money from CAIR clients.

Record: Iqbal Dep. at 70:16-72:1; 120:13-121:1 at Ex. 3 to Yerushalmi Decl. at Ex. A.

115. Plaintiffs' Statement: Defendant CAIR, Iqbal, and CAIR-VA never informed Plaintiffs that Days had been terminated (February 2008) for bad acts even though Plaintiffs reached out to Defendant CAIR on numerous occasions to get answers from Defendant CAIR about their legal cases.

Record: Turner Decl. at ¶¶ 1-26 at Ex. B; Abdussalaam Decl. at ¶¶ 1-36 at Ex. C; Nur Decl. at ¶¶ 135 at Ex. D; Saiyed Decl. at ¶¶ 1-36 at Ex. E.

116. Plaintiffs' Statement: Plaintiffs had not terminated their respective fiduciary relationships with Defendant CAIR at the time Defendant CAIR terminated Days' employment, and Defendant CAIR had not terminated its fiduciary relationship with Plaintiffs.

Record: Turner Decl. at ¶¶ 1-26 at Ex. B; Abdussalaam Decl. at ¶¶ 1-36 at Ex. C; Nur Decl. at ¶¶ 135 at Ex. D; Saiyed Decl. at ¶¶ 1-36 at Ex. E.

117. Plaintiffs' Statement: After discovering in early March 2008 that Days was not an attorney, Defendant CAIR, Iqbal, and CAIR-VA never informed Plaintiffs that Days was not an attorney and their legal cases were essentially fictions even though Plaintiffs reached out to Defendant CAIR on numerous occasions to get answers from Defendant CAIR about their legal cases.

Record: Athman Dep. at 132:10-19 at Ex. 1 to Yerushalmi Decl. at Ex. A; Turner Decl. at ¶¶ 1-26 at Ex. B; Abdussalaam Decl. at ¶¶ 1-36 at Ex. C; Nur Decl. at ¶¶ 135 at Ex. D; Saiyed Decl. at ¶¶ 1-36 at Ex. E.

118. Plaintiffs' Statement: Plaintiffs had not terminated their respective fiduciary relationships with Defendant CAIR at the time Defendant CAIR learned that Days was not an attorney and, other than Plaintiff Abdussalaam, Defendant CAIR had not terminated its fiduciary relationship with Plaintiffs.

Record: Turner Decl. at ¶¶ 1-26 at Ex. B; Abdussalaam Decl. at ¶¶ 1-36 at Ex. C; Nur Decl. at ¶¶ 135 at Ex. D; Saiyed Decl. at ¶¶ 1-36 at Ex. E.

119. Plaintiffs' Statement: From February 2008 to March 2008, Defendant CAIR took possession and control of the client legal files representing all clients for whom Days had acted as attorney while employed at CAIR-VA. Defendant CAIR took possession and control of the legal files without authority or approval from any of the clients. These files included the entire legal files of Plaintiffs Saiyed, Lopez, and Abdussalaam.

Record: Iqbal Dep. at at 120:13-122:12 at Ex. 3 to Yerushalmi Decl. at Ex. A; Yerushalmi Decl. at ¶¶ 33-35 at Ex. A;

120. Plaintiffs' Statement: Neither Defendant CAIR nor CAIR-VA made any effort to reach out to the list of Days' clients to determine who paid him fees for legal work and who did not. Rather, they only collected names when people would call into CAIR-VA to complain. This list included Plaintiffs Abdussalaam, Turner and Lopez).

Record: Athman Dep. at 65:14-67:6 at Ex. 1 to Yerushalmi Decl. at Ex. A; Iqbal Dep. at 128:7-130:7 at Ex. 3 to Yerushalmi Decl. at Ex. A; Ahmad Dep. at 40:11-45:7 at Ex. 8 to Yerushalmi Decl. at Ex. A; Iqbal Dep. at 18:8-23:24 at Ex. 4 to Yerushalmi Decl. at Ex. A.

121. Plaintiffs' Statement: After the legal files were transferred to Defendant CAIR, the following Defendant CAIR employees reviewed those files: Khadija Athman, civil rights manager for Defendant CAIR; Nadhira Al-Khalili, Defendant CAIR's in-house counsel; and

“interns.” Athman Dep. at 57:23-63:21 at Ex. 1 to Yerushalmi Decl. at Ex. A.

122. Plaintiffs’ Statement: Even after the file review by Defendant CAIR, and even after Defendant CAIR knew Days was not an attorney, no one from Defendant CAIR reached out to the Days’ victim-clients by telephone or by letter to disclose that (1) Days had fraudulently taken money from clients, (2) that Days had been fired for bad acts; or (3) that Days was not an attorney. At best, Defendant CAIR would field telephone calls from concerned and angry clients and take down the information.

Record: Athman Dep. at 114:15-119:20 at Ex. 1 to Yerushalmi Decl. at Ex. A.

123. Plaintiffs’ Statement: In fact, the only way the victim-clients even knew to contact Defendant CAIR (which had taken all of the victim-clients’ legal files from CAIR-VA to Defendant CAIR’s offices in Washington, D.C.) was if the client actually called CAIR-VA and someone at CAIR-VA told them to call Defendant CAIR.

Record: Pls. Facts at ¶¶ 115-122.

124. Plaintiffs’ Statement: Defendant CAIR claims that CAIR-VA sent a letter to “43” of the Days/CAIR clients (out of “about 87 opened cases”) to inform them of Days’ termination and to suggest they find other counsel, providing the names of three area lawyers who had agreed to take such cases on a “discounted” basis. (Def.’s Mot. at 17) (referencing Ex. A to Def.’s Mot. at 84 [the “letter”] and at 366 [Defendant CAIR’s internal accounting of the follow-up on the Days’ files]). This claim is false and fraudulent on many grounds.

Defendant CAIR’s own internal email only shows 33 immigration clients were sent the letter described above. (Ex. A to Def.’s Mot. at 366). This letter is dated February 13, 2008. (Ex. A to Def.’s Mot. at 84). While Defendant CAIR claims that another 10 immigration clients received a letter, Defendant CAIR’s internal email upon which they rely as evidence states only

that an additional 10 immigration clients “await a similar letter”—meaning that they intended at some future time to send such a letter (Ex. A to Def.’s Mot. at 366). But no other “similar letter” was produced by Defendant CAIR or by Iqbal and Iqbal testified that only the one letter was mailed, if at all, on February 13, 2008. And, as Defendant CAIR testified, it sent no such letter. (At best, Iqbal prepared a letter dated March 8, 2008, to send to Plaintiff Abdussalaam on Defendant CAIR’s letterhead to inform him that Defendant CAIR could not assist him. And, notwithstanding that Iqbal knew Days had defrauded Plaintiff Abdussalaam and had taken funds from him, Iqbal neither informs Plaintiff Abdussalaam of Days’ bad acts nor offers to reimburse him or provide any other assistance.)

Record: Iqbal Dep. at 122:21-125:23 at Ex. 3 to Yerushalmi Decl. at Ex. A; Pls.’ Facts at ¶ 113; Yerushalmi Decl. at Ex.23 at Ex. A.

125. Plaintiffs’ Statement: Plaintiff Lopez, an “immigration” client, received no such letter even though Defendant CAIR possessed Lopez’s legal file.

Record: Turner Decl. at ¶¶ 1-26 at Ex. B; Yerushalmi Decl. at ¶¶ 33-34 at Ex. A.

126. Plaintiffs’ Statement: Defendant CAIR’s internal email also indicates that 15 client files had been closed and that a “reject or dismissal letter were (sic) to be sent.” (Ex. A to Def.’s Mot. at 366). No such letter was produced by Defendant CAIR, and Defendant CAIR’s and Iqbal’s testimony establishes that no such letter was sent. The only letter that either mentioned being sent to any clients was the February 13 letter.

Record: Pls.’ Facts at ¶¶ 115-122.

127. Plaintiffs’ Statement: Defendant CAIR’s internal email indicates that “9 cases have been left for CAIR MD/VA to handle,” but Iqbal testified that all files were sent to Defendant CAIR because CAIR-VA did not have the personnel or expertise to even examine the files.

Record: Iqbal Dep. at 128:7-129:13 at Ex. 3 to Yerushalmi Decl. at Ex. A.

128. Plaintiffs' Statement: The only outreach by Defendant CAIR and its associates at CAIR-VA to determine who might have been defrauded by Days was to send a non-descript letter of February 13, 2008. (Ex. A to Def.'s Mot. at 366). By February 15, Defendant CAIR's internal email had determined from victim-clients' complaints that Days had taken funds from at least eight clients. And while Defendant CAIR had not reached out comprehensively to all of the victim-clients to find out how many had in fact paid Days "legal fees," Defendant CAIR admits that by February 19, 2008, there were no less than 17 victim-clients who had paid money. (Def.'s Mot. at 17). Indeed, their internal email dated just four days earlier took the position that Defendant CAIR expected even more CAIR victim-client to contact CAIR-VA after "the letters are received." Nonetheless, all of this expectation is undermined by the fact that Defendant CAIR did nothing to reach out to the victims and, in fact, when CAIR victim-clients contacted them, they either rejected their claims or told them Days was merely an independent contractor and they should seek other counsel. Finally, it is noteworthy that by their own admission, they put aside money for settlements only to pacify their most adversarial victim-clients.

Record: Pls. Facts at ¶¶ 115-122; 132-133.

129. Plaintiffs' Statement: One of the three attorneys listed on the February 13, 2008, letter purportedly sent to the 33 immigration clients was Hassan Ahmad. Ahmad was a board member of CAIR-VA during all times relevant to this litigation and an attorney specializing in immigration matters.

Record: Ahmad Dep. at 5:11-13; 7:9-18; 11:8-21 at Ex. 8 to Yerushalmi Decl. at Ex. A.

130. Plaintiffs' Statement: Ahmad was asked to review only about 12 immigration cases, not the 33 or 43 cases identified by Defendant CAIR. Ahmad did not receive a single call from any

of the so-called letter recipients (the 33 or 43 immigration victim-clients).

Record: Ahmad Dep. at 16:3-27:21 at Ex. 8 to Yerushalmi Decl. at Ex. A.

131. Plaintiffs' Statement: As the only attorney-board member of CAIR-VA, Ahmad made no effort to contact any client, nor did he even bother to discuss this matter with the other two attorneys listed on the February 13, 2008, letter.

Record: Pls. Facts at ¶¶ 130, 134.

132. Plaintiffs' Statement: As early as February 19, 2008, Defendant CAIR learned from an email sent by Iqbal that things were spiraling out of control, with additional clients calling daily and complaining that they had paid Days fees to handle their cases. Yet, from this date onward no effort was made to reach out to these clients or to any of the other victim-clients. In fact, Iqbal suggested to Defendant CAIR that “[t]he chapter should sanction some money at least for some people who are desperate and are threatening to take drastic action against CAIR (Like going to the media).” Moreover, a review of the emails between and among Defendant CAIR, Iqbal, and CAIR-VA board members demonstrates that Defendant CAIR was attempting to force settlements for those CAIR victim-clients threatening to sue Defendant CAIR.

Record: Pls.' Dep. Ex. 16 at 326 at Ex. 30 to Yerushalmi Decl. at Ex. A; *see generally*, Pls.' Dep. Ex. 16 at 315-52 at Ex. 30 to Yerushalmi Decl. at Ex. A; *see generally*, Pls. Facts, at ¶¶ 115-122.

133. Plaintiffs' Statement: Iqbal's concern was not rectifying and remedying the harm done by Days' fraud, but rather getting the threatening client-victims to take as little money as possible and to force them to sign an agreement that Defendant CAIR had done nothing wrong in order to “safeguard (sic) CAIR's name and reputation.”

Record: Pls.' Dep. Ex. 16 at 834-35 at Ex. 31 to Yerushalmi Decl. at Ex. A.

134. Plaintiffs' Statement: Soon after Days' termination (February 18, 2008), two of CAIR-VA's volunteers wrote letters in to CAIR-VA's chairman, Jaka, to inform him that CAIR-VA was abusing the trust placed in CAIR-VA by failing to deal with the Days' fraud responsibly. The lengthy letters are clearly written by two women who felt strongly in CAIR's mission but just as strongly that CAIR's actions were wrong and abusive. The letters were discussed by Iqbal and Jaka at the time. Notwithstanding the sincere warnings to Iqbal and Jaka that they were engaging in what can only be described as outrageous and intentional conduct to conceal Days' fraud rather than deal with it honestly, neither Defendant CAIR nor CAIR-VA modified their behavior. The letters are powerful indictments of Iqbal's behavior as an officer of both Defendant CAIR and CAIR-VA and of everyone involved in this fraud and cover-up. The letters speak for themselves as does the testimony from Hassan Ahmad, the CAIR-VA board member and lawyer regarding his response to one of the letters he reviewed at the time.

Record: Iqbal Dep. at 35:15-41:18 at Ex. 4 to Yerushalmi Decl. at Ex. A; Pls. Dep. Ex. 16 at 896-97 (referenced in Iqbal Dep.) at Ex. 32 to Yerushalmi Decl. at Ex. A; Ahmad Dep. at 40:11-45:7 at Ex. 8 to Yerushalmi Decl. at Ex. A; Pls. Dep. Ex. 17 at 146-47 (referenced in Ahmad Dep.) at Ex. 33 to Yerushalmi Decl. at Ex. A;

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2012, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the exhibits to this document filed under seal have been served by email upon opposing counsel pursuant to prior agreement.

/s/ David Yerushalmi
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