

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ESTATE OF ESTHER KLIEMAN, <u>et al.</u> ,)
)
Plaintiffs,)
)
v.)
)
PALESTINIAN AUTHORITY, <u>et al.</u> ,)
)
Defendants.)
)

Civil Action No. 04-1173 (PLF)

MEMORANDUM OPINION AND ORDER

On December 2, 2020, the Court ordered the parties to conduct jurisdictional discovery limited to the areas specified in the Promoting Security and Justice for Victims of Terrorism Act of 2019 (“PSJVTA”), H.R. 1865, 116th Cong., § 903 (Dec. 20, 2019). See Memorandum Opinion and Order [Dkt. No. 298] at 2. On September 30, 2021, plaintiffs filed a motion to compel jurisdictional discovery. See Plaintiffs’ Motion for an Order to Compel Jurisdictional Discovery from the Defendants [Dkt. No. 315] at 2-3. Defendants filed a brief in opposition to plaintiffs’ motion on October 14, 2021. See Defendants’ Memorandum in Opposition to Plaintiffs’ Motion to Compel [Dkt. No. 321]; see also Plaintiffs’ Reply Brief in Support of Plaintiffs’ Motion for an Order to Compel Jurisdictional Discovery from the Defendants [Dkt. No. 325].

Defendants have since filed five notices of supplemental authority. See Notice of Supplemental Authority in Support of Defendants’ Opposition to Plaintiffs’ Motion to Compel [Dkt. No. 326]; Second Notice of Supplemental Authority in Support of Defendants’ Opposition to Plaintiffs’ Motion to Compel (“Def. 2nd Not.”) [Dkt. No. 328]; Third Notice of Supplemental

Authority in Support of Defendants' Opposition to Plaintiffs' Motion to Compel ("Def. 3rd Not.") [Dkt. No. 330]; Fourth Notice of Supplemental Authority in Support of Defendants' Opposition to Plaintiffs' Motion to Compel ("Def. 4th Not.") [Dkt. No. 333]; Fifth Notice of Supplemental Authority in Support of Defendants' Opposition to Plaintiffs' Motion to Compel ("Def. 5th Not.") [Dkt. No. 335].

The supplemental authority provided by defendants largely relates to the constitutionality of the PSJVTA. Specifically, defendants have submitted cases in which judges in the Southern District of New York have ruled that the PSJVTA is unconstitutional. See Def. 2nd Not. (citing Fuld v. PLO, 578 F. Supp. 3d 577 (S.D.N.Y. 2022)); Def. 3rd Not. (citing Sokolow ("Sokolow I") v. PLO, 590 F. Supp. 3d 589 (S.D.N.Y. 2022)); Def. 4th Not. (citing Shatsky v. PLO, Civ. No. 18-12355, 2022 WL 826409 (S.D.N.Y. Mar. 18, 2022); Def. 5th Not. (citing Sokolow ("Sokolow II") v. PLO, Civ. No. 04-0397, 2022 WL 2159351 (S.D.N.Y. June 15, 2022)).

Plaintiffs responded to each of these notices and provided briefs submitted by the United States in cases in which the government has intervened to support the constitutionality of the law. See Plaintiffs' Response to Defendants' Second Notice of Supplemental Authority in Support of Defendants' Opposition to Plaintiffs' Motion to Compel [Dkt. No. 327]; Plaintiffs' Response to Defendants' Second Notice of Supplemental Authority in Support of Defendants' Opposition to Plaintiffs' Motion to Compel [Dkt. No. 329]; Plaintiffs' Response to Defendants' Third Notice of Supplemental Authority in Support of Defendants' Opposition to Plaintiffs' Motion to Compel [Dkt. No. 331]; Plaintiffs' Response to Defendants' Fourth Notice of Supplemental Authority in Support of Defendants' Opposition to Plaintiffs' Motion to Compel [Dkt. No. 334]; Plaintiffs' Response to Defendants' Fifth Notice of Supplemental Authority in

Support of Defendants' Opposition to Plaintiffs' Motion to Compel [Dkt. No. 336]; Plaintiffs' Third Notice of Supplemental Authority in Support of Plaintiffs' Motion to Compel ("Pl. 3rd Not.") [Dkt. No. 338].

Plaintiffs maintain that the PSJVTA is constitutional and that the constitutionality of the PSJVTA is not an issue before the Court in the Motion to Compel. They assert that the issue of the constitutionality of the statute should be reserved for a later briefing schedule "on an appropriately developed factual and legal record, where it may be more fully addressed." Pl. 3rd Not. at 1. The Court disagrees. It would be a waste of judicial resources to decide plaintiffs' motion to compel before addressing the issue of constitutionality of the PSJVTA because plaintiffs' motion to compel is premised on this very law. In fact, plaintiffs concede that "ordered briefing [on this issue] would assist the Court in making the best decision." *Id.* Accordingly, it is hereby

ORDERED that on or before February 10, 2023, the parties shall meet and confer and submit a joint status report setting forth a proposed briefing schedule for supplemental briefs on the issue of the constitutionality of the PSJVTA.

SO ORDERED.


PAUL L. FRIEDMAN
United States District Judge

DATE: 1/25/23