



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch  
20 Massachusetts Ave., NW  
Washington, DC 20530

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December 26, 2017

**Via ECF and by Fax**

The Hon. Naomi Reice Buchwald  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Re: *Knight First Amendment Institute at Columbia University, et al. v. Trump, et al.*,  
No. 17-cv-5205 (NRB)**

Dear Judge Buchwald,

Defendants submit this letter in response to Plaintiffs' December 21, 2017 letter, in which Plaintiffs argue that a colloquy at oral argument before the United States Court of Appeals for the Fourth Circuit included a government "concession" that is material to this case. Pls.' Letter at 1, ECF No. 57.

Defendants have never disputed that the President can "make official statements about the policies of his administration" through his @realDonaldTrump account. Defs.' Summ. J. Br. at 13, ECF No. 35 (citing Stip. ¶¶ 32, 35, 37, ECF No. 30-1). But as Defendants have noted, the question whether tweets are "official statements" ignores the actual issue before this Court: whether "the decision to *block* a Twitter user from a personal account is an exercise of the executive power that the President possesses by virtue of federal law." Defs.' Opp. & Reply Br. at 10, ECF No. 54 (emphasis added). As Defendants have explained at length in their briefs, the answer to that question is no.

Respectfully submitted,

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*/s/ Michael H. Baer*

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