

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

DCM ENERGY GMBH & CO. SOLAR 1 KG,  
DCM ENERGY GMBH & CO. SOLAR 2 KG,  
Tölzer Straße  
82031 Grünwald  
Germany

EDISUN POWER EUROPE AG,  
Universitätsstrasse 51  
8006 Zurich  
Switzerland

HANNOVER LEASING SUN INVEST 2 SPANIEN  
GMBH & CO. KG,  
HANNOVER LEASING SUN INVEST 2 SPANIEN  
BETEILIGUNGS GMBH,  
Wolfratshauser Straße  
82049 Pullach  
Germany

**No. 1:26-cv-00153**

*Plaintiffs,*

v.

THE KINGDOM OF SPAIN,  
Abogacia General del Estado  
Calle Ayala 5  
28001 Madrid  
Kingdom of Spain

*Defendant.*

**COMPLAINT**

Plaintiffs DCM Energy GmbH & Co. Solar 1 KG (“DCM 1”), DCM Energy GmbH & Co. Solar 2 KG (“DCM 2”), Edisun Power Europe AG (“Edisun”), Hannover Leasing Sun Invest 2 Spanien GmbH & Co. KG (“HL Sun Invest KG”), and Hannover Leasing Sun Invest 2 Spanien Beteiligungs GmbH (“HL Sun Invest GmbH”) (collectively, “Plaintiffs”), by and through their

undersigned counsel, allege as follows for their Complaint against Defendant the Kingdom of Spain (“Spain”):

**Nature of the Action**

1. This is an action to recognize and enforce an arbitral award issued on September 8, 2025 in ICSID Case No. ARB/17/41 in favor of Plaintiffs and against Spain (the “Award”).<sup>1</sup> The Award was issued by an arbitral tribunal (the “Tribunal”) following arbitration proceedings conducted in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the “ICSID Convention”).<sup>2</sup> The Award incorporates the full text of the Tribunal’s Decision on Jurisdiction, Liability and Quantum Principles (the “Decision”), which was issued on September 30, 2024.<sup>3</sup>

2. Pursuant to Article 54 of the ICSID Convention and 22 U.S.C. § 1650a, Plaintiffs request that this Court (1) enter an order recognizing and enforcing the Award and giving it the same full faith and credit as if it were a final judgment of a court of general jurisdiction of one of the several states, (2) enter judgment in Plaintiffs’ favor and against Spain in the amounts of EUR 25,083,428.80 and USD 2,075,455.92, plus pre-award and post-award interest as ordered by the Tribunal, and (3) grant any other and further relief that the Court may deem appropriate.

**The Parties**

3. Plaintiffs DCM 1 and DCM 2 are limited partnerships formed under the laws of Germany, having their registered offices at Tölzer Straße, 82031 Grünwald, Germany.

4. Plaintiff Edisun is a public corporation incorporated under the laws of Switzerland,

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<sup>1</sup> A true and correct copy of the Award, certified by the Secretary-General of ICSID, is attached hereto as Exhibit A.

<sup>2</sup> A true and correct copy of the ICSID Convention is attached hereto as Exhibit B.

<sup>3</sup> See Award, Ex. A, ¶ 5. A true and correct copy of the Decision, certified by the Secretary-General of ICSID, is attached hereto as Exhibit C.

having its registered office at Universitätsstrasse 51, 8006 Zurich, Switzerland.

5. Plaintiff HL Sun Invest KG is a limited partnership formed under the laws of Germany. Plaintiff HL Sun Invest GmbH is a limited liability company formed under the laws of Germany. Both HL Sun Invest KG and HL Sun Invest GmbH have their registered office at Wolfratshauser Straße, 82049 Pullach, Germany.

6. Defendant Spain is a foreign state within the meaning of the Foreign Sovereign Immunities Act, 28 U.S.C. §§ 1330, 1391(f), and 1602-1611.

### **Jurisdiction and Venue**

7. This Court has subject matter jurisdiction over this proceeding pursuant to 28 U.S.C. § 1330(a) and 22 U.S.C. § 1650a(b). This case falls within the exceptions to foreign sovereign immunity set forth in: (i) 28 U.S.C. § 1605(a)(1) for cases in which a foreign state has waived its immunity either explicitly or by implication; and (ii) 28 U.S.C. § 1605(a)(6) for cases brought against a foreign state to confirm an arbitration award that “is or may be governed by a treaty or other international agreement in force in the United States calling for the recognition and enforcement of arbitral awards.” *See, e.g., Tatneft v. Ukraine*, 771 F. App’x 9, 10 (D.C. Cir. 2019) (subject matter jurisdiction under waiver exception in 28 U.S.C. § 1605(a)(1)); *NextEra Energy Global Holdings B.V. v. Kingdom of Spain*, 112 F.4th 1088, 1105 (D.C. Cir. 2024) (subject matter jurisdiction under arbitration exception in 28 U.S.C. § 1605(a)(6)).

8. Personal jurisdiction over Spain exists under 28 U.S.C. § 1330(b), which provides that this Court may exercise personal jurisdiction over a foreign state as to every claim for relief over which the Court has subject matter jurisdiction, provided that service has been made in accordance with 28 U.S.C. § 1608.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(f)(4).

## Factual Background

### **I. Summary of the Dispute Underlying the Award**

10. As discussed further below, under 22 U.S.C. § 1650a(a), the Award is entitled to receive “the same full faith and credit as if [it] were a final judgment of a court of general jurisdiction of one of the several States.” Consequently, the merits of the dispute and the reasons underlying the Tribunal’s resolution of the dispute are not relevant to the recognition and enforcement of the Award under U.S. law. Nonetheless, solely for the purpose of providing background and context, Plaintiffs will briefly summarize the dispute and the Award.

11. The dispute underlying the Award arose out of Spain’s violations of the Energy Charter Treaty (the “ECT”)<sup>4</sup> with respect to Plaintiffs’ investments in solar photovoltaic (“PV”) plants in Spain.<sup>5</sup>

12. During the late 1990s and early 2000s, Spain introduced a program of legislative and regulatory measures to attract significant investment in its renewable energy sector.<sup>6</sup> Spain’s early attempts to incentivize renewable energy investment saw limited success and were criticized for “insufficient attractiveness,” prompting Spain to further improve the legal incentive regime applicable to renewable energy producers.<sup>7</sup>

13. On May 25, 2007, Spain enacted Royal Decree (“RD”) 661/2007, which offered to renewable energy producers higher feed-in tariff rates for the entire operational life of their facilities.<sup>8</sup> RD 661/2007 prompted a “robust” market response regarding PV projects, and by

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<sup>4</sup> A true and correct copy of the ECT is attached hereto as Exhibit D.

<sup>5</sup> See Decision, Ex. C, ¶ 166.

<sup>6</sup> See *id.* ¶¶ 177-205.

<sup>7</sup> See *id.* ¶ 199.

<sup>8</sup> See *id.* ¶¶ 219-231.

September 2007 Spain had reached 85% of its capacity target for new PV facilities.<sup>9</sup> Spain later enacted RD 1578/2008 to extend RD 661/2007, with several modifications.<sup>10</sup>

14. Beginning in 2008, Plaintiffs began to invest in PV projects in Spain. Plaintiffs DCM 1 and DCM 2 invested in six PV projects in Spain, all registered under RD 661/2007, between September 2008 and October 2009.<sup>11</sup> Plaintiffs HL Sun Invest KG and HL Sun Invest GmbH acquired three PV plants in Spain – also registered under RD 661/2007 – in May 2009.<sup>12</sup> Plaintiff Edison invested in four greenfield PV projects – two of which were registered under RD 661/2007 and two of which were registered under RD 1578/2008 – between 2007 and 2009.<sup>13</sup>

15. From 2010 through 2014, Spain adopted several measures that rolled back the economic incentives provided under RD 661/2007 and RD 1578/2008, which significantly reduced the financial incentives that Spain had offered to induce Plaintiffs' investments.<sup>14</sup>

## II. The ECT

16. Both the relationship and the dispute between Plaintiffs and Spain are governed by the ECT, which Spain signed on December 17, 1994 and ratified on December 11, 1997.<sup>15</sup> The ECT entered into force in Spain on April 16, 1998.<sup>16</sup> Switzerland signed the ECT on December

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<sup>9</sup> *Id.* ¶ 232.

<sup>10</sup> *Id.* ¶¶ 236-237.

<sup>11</sup> *Id.* ¶¶ 275-301.

<sup>12</sup> *Id.* ¶¶ 302-311.

<sup>13</sup> *Id.* ¶¶ 312-330.

<sup>14</sup> *See id.* ¶¶ 331-387.

<sup>15</sup> Energy Charter Secretariat: Spain, *available at* <https://www.energychartertreaty.org/treaty/contracting-parties-and-signatories/spain/> (last visited October 3, 2025).

<sup>16</sup> *Id.*

17, 1994, and the ECT entered into force in Switzerland on April 16, 1998.<sup>17</sup> Germany signed the ECT on December 17, 1994, and the ECT entered into force in Germany on April 16, 1998.<sup>18</sup> Germany submitted a notification of withdrawal from the ECT on December 19, 2022.<sup>19</sup> Germany’s withdrawal from the ECT took effect on December 21, 2023.<sup>20</sup> Pursuant to Article 47(3) of the ECT, all investments covered by the ECT at the time a withdrawal takes effect continue to receive protection under the treaty for 20 years.<sup>21</sup>

17. The ECT obligates each Contracting Party to protect Investments made by Investors of the other Contracting Parties within its territory. Article 1(7) provides that the term “Investor” means, with respect to a Contracting Party, “a company or other organisation organised in accordance with the law applicable in that Contracting Party.”<sup>22</sup>

18. Article 1(6) of the ECT defines the term “Investment” broadly to include “every kind of asset, owned or controlled directly or indirectly by an Investor[,]” including “tangible and intangible, and movable and immovable, property, and any property rights such as leases, mortgages, liens, and pledges[,]” and “any right conferred by law or contract or by virtue of any licences and permits granted pursuant to law to undertake any Economic Activity in the Energy

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<sup>17</sup> Energy Charter Secretariat: Switzerland, *available at* <https://www.energychartertreaty.org/treaty/contracting-parties-and-signatories/switzerland/> (last visited October 3, 2025).

<sup>18</sup> Energy Charter Secretariat: Germany, *available at* <https://www.energychartertreaty.org/treaty/contracting-parties-and-signatories/germany/> (last visited October 3, 2025).

<sup>19</sup> *Id.*

<sup>20</sup> Energy Charter Secretariat: Written notifications of withdrawal from the Energy Charter Treaty, *available at* <https://www.energychartertreaty.org/details/article/written-notifications-of-withdrawal-from-the-energy-charter-treaty/> (last visited October 3, 2025).

<sup>21</sup> ECT, Ex. D, Art. 47(3).

<sup>22</sup> *Id.*, Art. 1(7).

Sector.”<sup>23</sup>

19. The ECT sets out the substantive obligations of each Contracting Party to protect Investors of the other Contracting Parties and their Investments. For example, Article 10(1) provides:

Each Contracting Party shall, in accordance with the provisions of this Treaty, encourage and create stable, equitable, favourable and transparent conditions for Investors of other Contracting Parties to make Investments in its Area. **Such conditions shall include a commitment to accord at all times to Investments of Investors of other Contracting Parties fair and equitable treatment.** Such Investments shall also enjoy the most constant protection and security and no Contracting Party shall in any way impair by unreasonable or discriminatory measures their management, maintenance, use, enjoyment or disposal. In no case shall such Investments be accorded treatment less favourable than that required by international law, including treaty obligations. Each Contracting Party shall observe any obligations it has entered into with an Investor or an Investment of an Investor of any other Contracting Party.<sup>24</sup>

### III. The Parties’ Agreement to Arbitrate

20. Spain gave its “unconditional consent” to the submission of a dispute with an Investor of another Contracting Party to ICSID arbitration in Article 26(3)(a) of the ECT, which provides in pertinent part that “each Contracting Party hereby gives its unconditional consent to the submission of a dispute to international arbitration or conciliation in accordance with the provisions of this Article.”<sup>25</sup>

21. Article 26(4) of the ECT provides that:

In the event that an Investor chooses to submit the dispute . . . [to international arbitration], the Investor shall further provide its

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<sup>23</sup> *Id.*, Art. 1(6).

<sup>24</sup> *Id.*, Art. 10(1) (emphasis added).

<sup>25</sup> *Id.*, Art. 26(3)(a).

consent in writing for the dispute to be submitted to:

(a)(i) The International Centre for Settlement of Investment Disputes . . . if the Contracting Party of the Investor and the Contracting Party to the dispute are both parties to the ICSID Convention . . . .<sup>26</sup>

22. Plaintiffs affirmed in writing their consent to submission of the Parties' dispute to ICSID arbitration in paragraph 87 of their Request for Arbitration, which they submitted to ICSID on October 17, 2017.<sup>27</sup>

23. Spain's consent to arbitrate set forth in Article 26(3)(a) of the ECT, coupled with Plaintiffs' submission of the Parties' dispute to ICSID arbitration, constituted an agreement to arbitrate within the meaning of Chapter II of the ICSID Convention.

#### **IV. The Arbitration**

24. On October 17, 2017, Plaintiffs commenced the arbitration by filing their Request for Arbitration with ICSID.<sup>28</sup> On October 31, 2017, the Secretary-General of ICSID registered the Request for Arbitration in accordance with Article 36 of the ICSID Convention and notified the Parties of the registration.<sup>29</sup>

25. The arbitration proceeded in accordance with the ICSID Convention and the ICSID Arbitration Rules.<sup>30</sup> The selection of the Tribunal was completed on June 14, 2018.<sup>31</sup> The Tribunal consisted of Ms. Carole Malinvaud (President), Mr. Oscar M. Garibaldi (appointed by Plaintiffs), and Professor Pierre-Marie Dupuy (appointed by Spain).<sup>32</sup>

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<sup>26</sup> *Id.*, Art. 26(4).

<sup>27</sup> A true and correct copy of Plaintiffs' Request for Arbitration is attached hereto as Exhibit E. *See also* Decision, Ex. C, ¶ 5.

<sup>28</sup> Plaintiffs' Request for Arbitration, Ex. E; Decision, Ex. C, ¶ 5.

<sup>29</sup> Decision, Ex. C, ¶ 6.

<sup>30</sup> *See id.* ¶¶ 6, 10.

<sup>31</sup> *Id.* ¶ 10.

<sup>32</sup> *Id.* ¶¶ 7-9.

26. Spain was represented in the arbitration by attorneys from the Ministry of Justice of the Government of Spain.<sup>33</sup> Spain fully participated in the arbitration, including by submitting a Counter-Memorial, a Rejoinder on the Merits and Reply on Jurisdiction, and a post-hearing brief.<sup>34</sup>

27. From February 17 to 21, 2020, the Tribunal conducted a hearing, in which both Parties participated, presented witnesses and experts for examination, and were represented by their respective counsel.<sup>35</sup>

## **V. The Tribunal's Decision**

28. On September 30, 2024, the Tribunal issued the Decision. As noted above, the full text of the Decision is incorporated into the Award.<sup>36</sup>

29. In the Decision, the Tribunal unanimously rejected Spain's principal jurisdictional objection, finding that it had jurisdiction under the ECT and the ICSID Convention over claims by investors of one EU Member State against another EU Member State.<sup>37</sup> On the other hand, the Tribunal upheld Spain's second jurisdictional objection, which concerned only Plaintiffs' claims relating to a particular taxation measure adopted by Spain, finding those claims to be barred by the "carve-out" for taxation measures in Article 21 of the ECT.<sup>38</sup>

30. Regarding the merits, the Tribunal concluded by a majority that Spain breached its obligations under Article 10(1) of the ECT by (i) failing to accord at all times fair and equitable treatment to Plaintiffs' investments and (ii) impairing the management, maintenance, use,

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<sup>33</sup> Award, Ex. A, p. i; Decision, Ex. C, p. i.

<sup>34</sup> Decision, Ex. C, ¶¶ 30, 45, 88.

<sup>35</sup> *Id.* ¶¶ 57-58.

<sup>36</sup> *See* Award, Ex. A, ¶ 5.

<sup>37</sup> Decision, Ex. C, ¶¶ 500-616.

<sup>38</sup> *Id.* ¶¶ 631-654.

enjoyment or disposal of Plaintiffs' investments through unreasonable measures.<sup>39</sup>

31. Specifically, the Tribunal found by a majority that Spain breached its fair and equitable treatment obligation by radically and fundamentally altering the legal regime under which Plaintiffs invested, to Plaintiffs' detriment.<sup>40</sup> As part of this finding, the Tribunal concluded that Plaintiffs had relied on the remuneration regime under RD 661/2007 and RD 1578/2008 when making their investments.<sup>41</sup>

32. The Tribunal also found by a majority that the new regulatory regime applicable to PV investments from 2013 onwards was "plainly unreasonable" because it subjected Plaintiffs' investments to an entirely new set of remuneration parameters that had nothing to do with the regulatory framework under which Plaintiffs invested, and because it effectively introduced a "super-retroactivity" or "claw-back" effect that penalized investors who had invested under the prior regulatory framework.<sup>42</sup> Therefore, the Tribunal concluded by a majority that Spain also breached its obligation under Article 10(1) of the ECT not to impair the management, maintenance, use, enjoyment or disposal of Plaintiffs' investments through unreasonable measures.<sup>43</sup>

33. Regarding reparation, the Tribunal set forth principles in the Decision to govern the quantification of damages.<sup>44</sup> The parties (through their respective financial experts) subsequently submitted additional evidence regarding the amount of damages based on those principles.<sup>45</sup>

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<sup>39</sup> *Id.* ¶¶ 1338(ii)-(iii).

<sup>40</sup> *Id.* ¶¶ 1014, 1032.

<sup>41</sup> *Id.* ¶¶ 909-910, 914, 919, 922-923.

<sup>42</sup> *Id.* ¶ 1077.

<sup>43</sup> *Id.* ¶ 1078-1079.

<sup>44</sup> *Id.* ¶¶ 1214-1336.

<sup>45</sup> Award, Ex. A ¶¶ 8-15.

## VI. The Award

34. On September 8, 2025, the Tribunal issued the Award.<sup>46</sup>
35. In the Award, the Tribunal ordered Spain to pay to Plaintiffs:
- a. EUR 23,900,000 in compensation for the damages Plaintiffs incurred as a result of Spain's breach of Article 10(1) of the ECT, including pre-award interest up to June 30, 2025;<sup>47</sup>
  - b. USD 372,263.13 in reimbursement for 25% of the costs of the arbitration;<sup>48</sup>
  - c. USD 1,703,192.79 and EUR 1,183,428.77 in partial reimbursement for Plaintiffs' legal costs, expert costs, and related expenses;<sup>49</sup>
  - d. Pre-award interest at the 12-month EURIBOR rate, compounded annually, on the sum of EUR 23,900,000 from July 1, 2025 to the date of the Award (September 8, 2025);<sup>50</sup>
  - e. Post-award interest at the 12-month EURIBOR rate, compounded annually, on the total amount owed under paragraphs 35(a) and 35(d) above, from September 9, 2025 to the date of payment;<sup>51</sup> and
  - f. Post-award interest at the 12-month EURIBOR rate, compounded annually, on the amounts specified in paragraphs 35(b) and 35(c) above, from September 8, 2025 to the date of payment.<sup>52</sup>

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<sup>46</sup> See Award, Ex. A.

<sup>47</sup> *Id.* ¶ 120(v).

<sup>48</sup> *Id.* ¶ 120(vii).

<sup>49</sup> *Id.* ¶ 120 (viii).

<sup>50</sup> *Id.* ¶ 120(vi).

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* ¶ 120(ix).

**Cause of Action – Recognition of the Award Pursuant to 22 U.S.C. § 1650a**

36. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 35 as if set forth fully herein.

37. On August 27, 1965, the United States signed the ICSID Convention, which establishes a framework for the resolution of investment disputes between a foreign sovereign party to the Convention and a national of another State party to the Convention.<sup>53</sup> The United States deposited its instrument of ratification for the ICSID Convention on June 10, 1966, and the Convention entered into force for the United States on October 14, 1966.<sup>54</sup> Awards issued pursuant to the ICSID Convention are subject to recognition and enforcement in the United States under Article 54 of the ICSID Convention and 22 U.S.C. § 1650a.

38. Spain signed the ICSID Convention on March 21, 1994, and deposited its ratification on August 18, 1994.<sup>55</sup> The ICSID Convention entered into force for Spain on September 17, 1994. As discussed above, Plaintiffs are nationals of Germany and Switzerland,<sup>56</sup> which became Contracting States to the ICSID Convention on May 18, 1969 and June 14, 1968, respectively.<sup>57</sup>

39. Article 53(1) of the ICSID Convention provides that an award rendered by an ICSID tribunal “shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this Convention. Each party shall abide by and comply with the terms of the award except to the extent that enforcement shall have been stayed pursuant

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<sup>53</sup> Database of ICSID Member States, *available at* <https://icsid.worldbank.org/about/member-states/database-of-member-states> (last visited October 3, 2025).

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Decision, Ex. C, ¶ 2.

<sup>57</sup> Database of ICSID Member States, *available at* <https://icsid.worldbank.org/about/member-states/database-of-member-states> (last visited October 3, 2025).

to the relevant provisions of this Convention.”<sup>58</sup>

40. Article 54(1) of the ICSID Convention provides that “[e]ach Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State.”<sup>59</sup>

41. Section 1650a(a) of Title 22 of the United States Code implements Article 54 of the ICSID Convention by providing as follows:

An award of an arbitral tribunal rendered pursuant to chapter IV of the [ICSID] convention shall create a right arising under a treaty of the United States. The pecuniary obligations imposed by such an award shall be enforced and shall be given the same full faith and credit as if the award were a final judgment of a court of general jurisdiction of one of the several States. The Federal Arbitration Act (9 U.S.C. 1 et seq.) shall not apply to enforcement of awards rendered pursuant to the convention.

42. The Award was rendered by an arbitral tribunal pursuant to Chapter IV of the ICSID Convention.

43. The Award includes pecuniary obligations in the amounts set out in paragraph 35 above. Spain has not satisfied any part of these outstanding pecuniary obligations.

44. Pursuant to 22 U.S.C. § 1650a(a) and Article 54 of the ICSID Convention, the Award must be recognized and the pecuniary obligations therein must be enforced “as if [it] were a final judgment of a court of general jurisdiction of one of the several States.”<sup>60</sup>

### **Prayer for Relief**

WHEREFORE, Plaintiffs respectfully request that this Court enter an order and judgment:

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<sup>58</sup> ICSID Convention, Ex. B, Art. 53(1).

<sup>59</sup> *Id.*, Art. 54(1).

<sup>60</sup> 22 U.S.C. § 1650a(a).

- (a) Recognizing the Award and enforcing the pecuniary obligations imposed by the Award as if the Award were a final judgment of a court of general jurisdiction of one of the several States;
- (b) Entering judgment in Plaintiffs' favor and against Spain in the amounts of EUR 25,083,428.80 and USD 2,075,455.92, plus pre-award and post-award interest as ordered by the Tribunal; and
- (c) Awarding such other and further relief as may be proper.

Dated: New York, New York  
January 20, 2026

Respectfully submitted,

/s/ Thomas C.C. Childs

Thomas C.C. Childs (NY0449)

Timothy M. McKenzie (*pro hac vice* forthcoming)

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