No. 12-10493

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HSUAN BIN CHEN,

Defendant-Appellant.

On Appeal From the United States District Court for the Northern District of California
The Honorable Susan Illston
District Court Case No. 09-cr-00110-SI

MOTION FOR RELEASE PENDING APPEAL

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I. INTRODUCTION

Congress designed the Bail Reform Act of 1984 to prevent a particular type of injustice: a criminal defendant serving time in prison for a conviction that is ultimately overturned on appeal. To accomplish this goal, the Act requires bail for a defendant who is not a flight risk and who presents a fairly debatable issue, or "substantial question," on appeal. 18 U.S.C. § 3143(b)(1).

Defendant Hsuan Bin Chen is entitled to this protection. He and his codefendant Dr. Hui Hsiung are the first foreign nationals tried and convicted of an antitrust offense for foreign conduct. As the first of its kind, his prosecution raised numerous issues of first impression in the Ninth Circuit regarding the reach of the Sherman Act outside of the United States and the proper standard for evaluating the effect of foreign conduct on domestic commerce. The district court resolved these issues against Mr. Chen either without the aid of controlling precedent or, in one instance, contrary to a binding decision of this Court.

In response to a pretrial motion to dismiss, the district court incorrectly ruled that the government need not plead nor prove that the charged foreign conduct violated the "rule of reason." That decision, later reiterated at trial, was directly contrary to this Court's binding precedent in *Metro Industries,*

Inc. v. Sammi Corporation, 82 F.3d 839 (9th Cir. 1996). The lower court then doubled down on its view that the Sherman Act treats foreign and domestic conduct no differently by again refusing to dismiss the indictment prior to trial despite its failure to allege elements required by the Foreign Trade Antitrust Improvement Act ("FTAIA"). The district court made these incorrect rulings against a backdrop in which any extraterritorial application of the Sherman Act is justifiably questioned. *See Morrison v. Nat'l Austl. Bank Ltd.*, 130 S. Ct. 2869 (2010); *Kiobel v. Royal Dutch Petroleum*, No. 10-1491 (U.S.).

Because these issues present "substantial questions" about the legality of his conviction, Mr. Chen need only demonstrate that he is not a flight risk in order to merit bail pending appeal. Mr. Chen easily clears this hurdle. The district court observed that he had "been cooperative with the court and responsible with the court and ha[d] come to court when [he was] ordered to come to court and ha[d] shown relatively little inclination to be a flight risk." (ECF 963 at 59 (attached as Exhibit A).) Moreover, Mr. Chen is subject to significant bail conditions, has strong ties to the United States, and, most importantly, has a perfect record of compliance with his bail conditions since voluntarily traveling from his home in Taiwan to submit to United States

jurisdiction and defend the charges against him.

For these reasons, as further detailed below, the Ninth Circuit should grant Mr. Chen bail pending appeal to eliminate the substantial risk that he will serve months or years of imprisonment before his conviction is overturned on appeal.

II. BACKGROUND

In June 2010, the United States filed a superseding indictment charging Mr. Chen with one count of price fixing in violation of the Sherman Act, 15 U.S.C. § 1. Mr. Chen is the former CEO of AU Optronics Corporation, a Taiwanese manufacturer of TFT-LCD panels that are incorporated by other companies into televisions, notebook computers, monitors, and other electronics.

Mr. Chen, a Taiwanese citizen, voluntarily traveled from Taiwan to contest these charge and made his initial appearance on July 29, 2010. (ECF 58.) Soon after his first appearance, Mr. Chen was granted bail under three primary conditions. First, Mr. Chen could not travel outside the Northern District of California and had to relinquish his passport to the possession of Pretrial Services. (ECF 112, 114.) Second, Mr. Chen posted a $1 million letter of credit. (*Id.*) Third, Mr. Chen's three grown daughters—a doctor at

the Mayo Clinic, an architect living in New York, and a PhD student at the University of Michigan—signed as sureties for a total of $4 million. (ECF 94.)

Mr. Chen sought and received temporary modifications to his bail conditions allowing him to travel both domestically and internationally. With the district court's permission, Mr. Chen used his passport to make six domestic trips outside the Northern District of California to visit family, including his first granddaughter, who was born in Minnesota during trial. (ECF 109, 194, 255, 304, 382, 769.) In addition, Mr. Chen obtained permission to travel to Taiwan to visit his ailing parents on seven occasions. (ECF 143-45, 205, 284, 327, 369, 390, 925.) Mr. Chen's last trip to Taiwan—to attend his mother's funeral—occurred after his conviction. (ECF 925.)

After a seven week trial, the jury convicted Mr. Chen and three codefendants on the sole count. (ECF 851.) The jury acquitted two other codefendants, and could not reach a verdict on one other. (*Id.*) Following the verdict, Mr. Chen continued to be released with the same bail conditions.

Following its denial of Mr. Chen and his codefendants' post-trial motions, the district court set the sentencing hearing for September 2012.

(ECF 910.) The government sought a statutory-maximum sentence of 10 years imprisonment for Mr. Chen. (ECF 948.) The district court rejected this position, sentencing Mr. Chen to three years imprisonment and a $200,000 fine. (ECF 963.) The district court summarily denied Mr. Chen motion for bail pending appeal. (*Id.* at 58-59.) Mr. Chen timely filed a notice of appeal.

III. LEGAL STANDARD

Pursuant to 18 U.S.C. § 3143(b)(1), Mr. Chen is entitled to release pending appeal upon a showing that: (1) he "is not likely to flee;" (2) "that [his] appeal raises a substantial question of law or fact;" and (3) "that if that substantial question is determined favorably to defendant on appeal, that decision is likely to result in reversal or an order for a new trial of all counts on which imprisonment has been imposed."[1] *United States v. Handy*, 761 F.2d 1279, 1283 (9th Cir. 1985). A "defendant is entitled to an individualized determination of bail eligibility." *United States v. Stone*, 608 F.3d 939, 946

[1] The other statutory requirements are uncontested. Mr. Chen—a 60 year old business executive with no prior criminal record—poses no danger to the community. *Cf. United States v. Hart*, 906 F. Supp. 102, 105 (N.D.N.Y. 1995). Mr. Chen's good faith with the court demonstrates that his appeal is not for the purpose of delay. Mr. Chen promptly filed his notice of appeal and has begun the necessary steps to perfect his appeal. There is no record of dilatory tactics by his counsel, who have vigorously litigated Mr. Chen's defense. *Cf. id.* at 105 (finding no intentional delay where there was no "pattern of dilatory defense tactics," and where defendant maintained innocence throughout proceedings, and raised substantial issues on appeal).

(6th Cir. 2010); *accord, United States v. Watson*, 582 F.3d 974, 985 (9th Cir. 2009); *United States v. Stephens* 594 F.3d 1033, 1036 (8th Cir. 2010).

IV. MR. CHEN POSES SUBSTANTIAL QUESTIONS ON APPEAL WHICH WILL REQUIRE REVERSAL OR A NEW TRIAL

In its seminal case on the Bail Reform Act of 1984, *United States v. Handy*, 761 F.2d 1279 (9th Cir. 1985), this Court considered what makes a question of law "substantial." It determined that to find a question substantial does not require a finding that the conviction will likely be reversed on appeal. *Id.* at 1281. Rather, the Court need only find that the question presented on appeal is "fairly debatable" or "fairly doubtful." *Id.* at 1283. It must be more than "not frivolous," but it need not be a "close" question. *Id.* "Fairly debatable" questions include those that are novel, are not "plainly covered by the controlling precedents," or are "debatable among jurists of reason." *Id.* at 1281-82 (internal citations and quotations omitted).

Mr. Chen is preparing to pose several substantial questions on appeal. As all parties and the district court itself recognized, this prosecution—involving the first trial of a foreign national under the Sherman Act—raised multiple issues of first impression. (*See* RT 4699:23-24 (Court: "we are in what appears to me to be pretty uncharted waters here."); ECF 906, 5:14-15 (Court: "[t]his case has been chock-full of situations for which there isn't any

case law."); ECF 941, 2:6-7 (order excluding time under Speedy Trial Act in part "due to the nature of the prosecution and the existence of novel questions of fact and law").) The following issues, though not exhaustive of those Mr. Chen will raise on appeal, are among the substantial questions the district court wrongly decided in the absence of, or contrary to, controlling precedents.[2]

A. Mr. Chen's Foreign Conduct Must Be Evaluated Pursuant to the Rule of Reason

In *Metro Industries, Inc. v. Sammi Corporation*, this Court considered a Sherman Act claim against a South Korean exporting company. 82 F.3d at 841. In affirming summary judgment for the defendant, the Court unequivocally held that "where a Sherman Act claim is based on conduct outside the United States, we apply rule of reason analysis to determine whether there is a Sherman Act violation." *Id.* at 845. Because foreign conduct may affect United States commerce differently than domestic conduct, a *per se* analysis is inappropriate "regardless of the inherently suspect appearance of the foreign activities." *Id.*

[2] Mr. Chen also adopts and incorporates by reference the arguments made by codefendant Dr. Hui Hsiung in his motion for release pending appeal.

Before trial, the defendants moved to dismiss the indictment for failure to allege the necessary elements of an antitrust violation under *Metro Industries'* "rule of reason" analysis. (ECF 177.) The government opposed because of, *inter alia*, the Department of Justice's policy barring prosecution of "rule of reason" cases. (ECF 187). The district court denied the defendant's motion and allowed the government to prosecute Mr. Chen—whose relevant conduct occurred exclusively in Taiwan—under a *per se* theory of liability. (ECF 250; *see also* ECF 920, at 7 (reiterating refusal to apply *Metro Industries* in denying motion for new trial).)

These rulings raise a substantial question regarding the adequacy of the indictment, the sufficiency of the evidence presented in the district court, and the final judgment. The indictment does not allege any anticompetitive effects stemming from the alleged conspiracy. The defense was barred from presenting evidence or argument that their conduct was reasonable. Because the "rule of reason" requires such allegations and evidence, should the Ninth Circuit confirm that *Metro Industries* is good law, Mr. Chen's conviction must be vacated, and the indictment dismissed.

B. The Sherman Act Does Not Apply Extraterritorially to Criminalize Mr. Chen's Foreign Conduct

For nearly two centuries, the Supreme Court has emphasized that there is a strong presumption against extraterritorial application of U.S. laws. *See, e.g.*, *Morrison* v. *Nat'l Austl. Bank Ltd.*, 130 S. Ct. 2869, 2877 (2010); *EEOC* v. *Arabian Am. Oil Co.*, 499 U.S. 244, 248 (1991) (*Aramco*); *The Apollon*, 22 U.S. (9 Wheat.) 362, 370 (1824). To effect this presumption, the Court has adopted a clear-statement rule: "[U]nless . . . the affirmative intention of the Congress [is] clearly expressed, we must presume [a statute] is primarily concerned with domestic conditions." *Aramco*, 499 U.S. at 248 (internal quotation marks and citation omitted). Because Congress has not clearly expressed its intention to apply the Sherman Act extraterritorially, the prosecution of Mr. Chen for his purely foreign conduct was impermissible.

Section 1 of the Sherman Act lacks any express statement regarding extraterritorial application, providing only that

> [e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.

15 U.S.C. § 1. The text is the beginning and end of the question of extraterritorial application. Congress provided no clear statement extending

the Sherman Act's criminal prohibition to foreign conduct, and so the statute cannot be stretched beyond the domestic sphere. *Morrison*, 130 S. Ct. at 2878 ("When a statute gives no clear indication of an extraterritorial application, it has none.").

The FTAIA does not constitute a clear statement that the Sherman Act applies extraterritorially in criminal cases. *See* 15 U.S.C. § 6a(1)(A) (providing that the Sherman Act does not apply to conduct involving foreign trade or commerce, other than import commerce, unless "such conduct has a direct, substantial, and reasonably foreseeable effect" on domestic or import commerce). Even those courts that have held that the Sherman Act applies extraterritorially have declined to rest that conclusion on the FTAIA. *See Hartford Fire Ins. Co. v. California*, 509 U.S. 764, 796 & n.23 (1993) (finding it "unclear how [the FTAIA] might apply to the conduct alleged here"); *United States v. Nippon Paper*, 109 F.3d 1, 4 (1st Cir. 1997) ("The FTAIA is inelegantly phrased and the court in *Hartford Fire* declined to place any weight on it. We emulate this example and do not rest our ultimate conclusion about Section One's scope upon the FTAIA." (citation omitted)).

Furthermore, in *Morrison*, the Supreme Court rejected the argument that a statutory provision similar to the FTAIA, which imposes a condition

precedent to any application of the statute premised on foreign commerce, suffices as a clear statement of extraterritorial effect. 130 S. Ct. at 2882. "[I]t would be odd," the Court observed, "for Congress to indicate the extraterritorial application of the whole Exchange Act by means of a provision imposing a condition precedent to its application abroad. . . . At most, [this] proposed inference is possible; but possible interpretations of statutory language do not override the presumption against extraterritoriality." *Id.* at 2882-83.

Lacking any statutory basis for applying the Sherman Act extraterritorially, the district court instead relied on *Hartford Fire Insurance Co. v. California*, in which the Supreme Court veered away from the presumption against extraterritoriality. 509 U.S. at 796. In a deeply fragmented decision regarding comity, the *Hartford Fire* Court declared in passing—with no analysis of the statutory text—that "the Sherman Act applies to foreign conduct that was meant to produce and did in fact produce some substantial effect in the United States." *Id.* But this passing statement provides insufficient grounds for prosecuting Mr. Chen for three reasons.

First, the Court's declaration of extraterritorial application in *Hartford Fire* rested on the faulty premise that it was "well established" that the

Sherman Act reached foreign conduct. 509 U.S. at 796. But examination of the authorities cited in *Hartford Fire* reveals that "none of the citations actually supports the Court's assertion; there were, in fact, no Supreme Court cases applying the Sherman Act on facts like those in *Hartford*," which involved a conspiracy among foreign and domestic defendants aimed at restricting the terms of insurance coverage available in the United States. Larry Kramer, *Extraterritorial Application of American Law After the Insurance Antitrust Case*, 89 Am. J. Int'l L. 750, 751 (1995). Indeed, there was a striking *absence* of precedent, for although the Sherman Act had been in existence for more than a century, no case had previously applied the statute to conduct that was foreign in all essential respects.

Second, *Hartford Fire*, a civil insurance case, cannot answer the question posed by this *criminal* case, with Mr. Chen's freedom on the line. The Supreme Court has held in no uncertain terms that criminal laws do not apply extraterritorially absent an express statement from Congress: "If [criminal] punishment is to be extended [extraterritorially], it is natural for Congress to say so in the statute, and *failure to do so will negative the purpose of Congress in this regard*." *United States* v. *Bowman*, 260 U.S. 94, 98 (1922) (emphasis added). This clear-statement rule parallels the analysis

in civil cases, but the presumption against extraterritoriality has particular force as applied to criminal laws. This is so because "an act of Congress ought never to be construed to violate the law of nations if any other possible construction remains," *Murray* v. *The Charming Betsy*, 6 U.S. (2 Cranch) 64, 118 (1804) (Marshall, C.J.), and the "law of nations" specifically disapproves extraterritorial enforcement of criminal prohibitions. Restatement (Third) of Foreign Relations Law § 403, Reporters' Note 8 (1986).

Third, recent precedents demonstrate that *Hartford Fire*'s extraterritoriality ruling is no longer good law. In *Morrison*, the Supreme Court declared that "[w]hen a statute gives no clear indication of an extraterritorial application, it has none." 130 S. Ct. at 2878; *see also id.* at 2877 (reaffirming the "longstanding principle of American law that legislation of Congress, unless a contrary intent appears, is meant to apply only within the territorial jurisdiction of the United States" (citing *Aramco*, 499 U.S. at 248)). Relying heavily on *Aramco*'s clear-statement rule and on the observation that the rule applies without exception, the *Morrison* Court held that Section 10(b) of the Securities Exchange Act of 1934 does not apply extraterritorially. *Id.* at 2883; *see also id.* at 2881 ("we apply the presumption in *all* cases") (emphasis added).

In light of *Morrison*, Mr. Chen will ask this Court to hold that the Sherman Act does not apply extraterritorially. That would faithfully follow the approach that federal courts have taken to heed *Morrison* by reexamining, and in some cases limiting, the extraterritorial reach of other federal statutes. *See, e.g.*, *Norex Petroleum Ltd. v. Access Indus., Inc.*, 631 F.3d 29, 32-33 (2d Cir. 2010) (RICO); *United States* v. *Belfast*, 611 F.3d 783, 810-11 (11th Cir. 2010) (Torture Act); *Love* v. *Associated Newspapers, Ltd.*, 611 F.3d 601, 612 n.6 (9th Cir. 2010) (Lanham Act); *United States* v. *Philip Morris USA, Inc.*, 783 F. Supp. 2d 23, 27-29 (D.D.C. 2011) (RICO); *Cedeno* v. *Intech Group, Inc.*, 733 F. Supp. 2d 471, 472-473 (S.D.N.Y. 2010) (RICO).

The Supreme Court, too, has begun revisiting seemingly "well established" extraterritorial applications of U.S. law in the wake of *Morrison*. The Court recently held oral argument regarding the extraterritorial application of the Alien Tort Statute, even though the statute is specifically directed at non-U.S. persons and entities and even though courts have uniformly held that the law reaches foreign conduct. *See Kiobel* v. *Royal Dutch Petroleum*, No. 10-1491 (U.S.).

These issues and recent developments raise a substantial question that goes to the very heart of this case: is Mr. Chen, a Taiwanese citizen whose

allegedly criminal conduct occurred exclusively abroad, subject to criminal punishment under the Sherman Act? If the answer is no, as Mr. Chen and his codefendants contend, and the Ninth Circuit must decide, then his conviction must be vacated.

C. The Government Failed to Allege or Prove Any Commerce Within an FTAIA Exclusion

Pursuant to the FTAIA, "trade or commerce … with foreign nations" is not subject to the Sherman Act unless the Government alleges and proves at least one of two exclusions: (1) conduct involving import trade or commerce; or (2) conduct having a direct, substantial, and reasonably foreseeable effect on United States commerce. 15 U.S.C. § 6a. The government failed to allege commerce meeting either exclusion in the indictment. When the defendants moved to dismiss on that ground, the district court erred by denying the motion. (ECF 258, 287.) Then, at trial, the government failed to prove the same exclusions. The deficiency in both instances was qualitative: the government introduced ample evidence that AUO products eventually reached the United States, but not in a form that the law deems "direct" or to constitute "imports."

The Ninth Circuit has never considered the application or scope of these exclusions, leaving the parties and the district court without binding

precedent regarding the propriety of the indictment and the sufficiency of the evidence at trial. To fill this vacuum, the district court turned to—but ultimately misapplied—Third Circuit authority. While Mr. Chen will contend that the Third Circuit's construction of the FTAIA exclusions is too broad, the evidence fails to meet even the expansive interpretation adopted by the district court.

Regarding the first exclusion, to be considered conduct involving import trade or commerce, the conduct must at least be "directed at an import market" or "target import goods or services." *Animal Science Prods. v. China Minmetals Corp.*, 654 F.3d 462, 470 (3d Cir. 2011). But there is no evidence that Defendants specifically designed panels for, or shipped them to, the U.S. market. Rather, AUO panels were placed into foreign warehouses, from which unaffiliated foreign systems integrators pulled them and incorporated them into consumer products. These consumer products were then sold to consumers throughout the world, not just in the United States. As a matter of law, this evidence is insufficient to find beyond a reasonable doubt that Defendants fixed the prices of TFT-LCD panels *targeted* for sale or delivery to the United States.

Regarding the second exclusion, Defendants' conduct—which is

limited to foreign markets for inputs that are incorporated abroad into products that may be sold into the United States—cannot have a "direct" effect on United States commerce within the meaning of the FTAIA. *See In re Intel Corp. Microprocessor Antitrust Litig.*, 476 F. Supp. 2d 452, 456 (D. Del. 2007); *United Phosphorous, Ltd. v. Angus Chem. Co.*, 131 F. Supp. 2d 1003, 1014 (N.D. Ill. 2001).

The scope and application of the FTAIA exclusions are substantial questions that have been litigated in this action without the benefit of Ninth Circuit precedent. That alone meets the section 3143(b) criteria for meriting bail pending appeal. *Handy*, 761 F.2d at 1281-82.

V. MR. CHEN IS NOT A FLIGHT RISK

In originally setting bail for Mr. Chen, the district court determined that he is not a flight risk. His every action since that time has affirmed that judgment, and supports his continued release pending appeal. Mr. Chen has complied with all conditions of his release and has attended every required court appearance, showing by clear and convincing evidence that he is not a flight risk. *See Truong Dinh Hung* v. *United States*, 439 U.S. 1326, 1329 (1978) (Brennan, J. in chambers) (emphasizing that the defendant had "faithfully complied with the terms of his pretrial bail" in concluding that he

was not a flight risk and was entitled to release pending appeal); *Sellers* v. *United States*, 89 S. Ct. 36, 39 (1968) (Black, J., in chambers) (holding that defendant was not a flight risk for purposes of bail pending appeal in light of his "perfect record of appearing as required before the District Court"); *United States* v. *Motamedi*, 767 F.2d 1403, 1408 (9th Cir. 1985) (Kennedy, J.) (emphasizing that the defendant "ha[d] not violated any conditions of his release and ha[d] made all court appearances").

As a condition of bail, in addition to the significant bond posted by him and his daughters, Mr. Chen submitted his passport to the district court's custody. Without his passport, Mr. Chen cannot travel to Taiwan. But with the district court's permission, he successfully completed six domestic trips outside of the Northern District of California using his Taiwanese passport, always returning on time and promptly submitting his passport to the court's possession. In addition, he made seven international trips to Taiwan—which has no extradition treaty with the United States—to spend time with his ailing parents. Again, he unfailingly returned to the Northern District as scheduled and returned his passport to the court's possession. The last of his trips to Taiwan occurred *after* Mr. Chen was convicted, when he faced the possibility of a ten-year prison sentence. Mr. Chen has demonstrated time and again that

he voluntarily submits to the court's jurisdiction, which will not change during his appeal to the Ninth Circuit. *Cf. Sellers*, 89 S. Ct. at 39 (finding it significant that the defendant "returned from as far away as Japan to appear for his trial").

In summarily denying Mr. Chen's motion for bail pending appeal, the district court did not find that he is a flight risk. Indeed, the government did not even argue that Mr. Chen is a flight risk. (*See* ECF 962.) While the district court expressed passing concern about the lack of extradition treaty between Taiwan and the United States, this concern is of no moment—Mr. Chen cannot leave the United States or reenter Taiwan because he does not have his passport. What is more, the district court's general concern about extradition is not the "individualized determination of bail eligibility" required to deny a defendant release on bail. *United States v. Stone*, 608 F.3d 939, 946 (6th Cir. 2010); *accord*, *United States v. Watson*, 582 F.3d 974, 985 (9th Cir. 2009).

The district court's only relevant finding is that Mr. Chen "ha[s] been cooperative with the court and responsible with the court and ha[s] come to court when [he was] ordered to come to court and ha[s] shown relatively little inclination to be a flight risk." (ECF 963 at 59.) Indeed, the district court had

previously found by clear and convincing evidence that Mr. Chen was not a flight risk when it allowed for his continued release on bail following his conviction. *See* 18 U.S.C. § 3143(a) (requiring remand to custody following conviction unless defendant demonstrates by clear and convincing evidence that he is not a flight risk). The district court then allowed Mr. Chen to travel to Taiwan after the passing of Mr. Chen's Mother. Finally, the district court allowed Mr. Chen to voluntarily surrender to the Bureau of Prisons to serve his term of imprisonment. (ECF 963 at 57.)

From the day he voluntarily traveled from Taiwan to contest the charges against him, Mr. Chen's conduct towards the United States courts has been irreproachable. Through pretrial, trial, and post-trial proceedings, Mr. Chen has complied with every bail condition and maintained perfect attendance at court proceedings. He has done everything possible to demonstrate that he is not a flight risk, which—combined with the substantial questions he presents on appeal—more than meets his burden on this motion.

VI. CONCLUSION

For the foregoing reasons, Mr. Chen respectfully requests that the Court grant his motion for release pending appeal.

Dated: November 26, 2012

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on November 26, 2012.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

By: s/ Michael A. Attanasio
Michael A. Attanasio