

Nos. 24-20 & 24-151

In the Supreme Court of the United States

MIRIAM FULD, ET AL., PETITIONERS,

v.

PALESTINE LIBERATION ORGANIZATION, ET AL.

UNITED STATES, PETITIONER,

v.

PALESTINE LIBERATION ORGANIZATION, ET AL.

*ON WRITS OF CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE SECOND CIRCUIT*

**BRIEF ON BEHALF OF SEVENTEEN JEWISH,
PRO-ISRAEL, AND CIVIL RIGHTS
ORGANIZATIONS, AS *AMICI CURIAE*, IN
SUPPORT OF PETITIONERS**

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INTEREST OF *AMICI CURIAE*¹

Amici are a coalition of seventeen Jewish, pro-Israel, and civil rights organizations from across the political spectrum that combat antisemitism. They include Agudath Israel of America, the American Association of Jewish Lawyers and Jurists, the American Jewish Committee, the Anti-Defamation League, Christians United for Israel, the Coalition for Jewish Values, the Endowment for Middle East Truth, the International Legal Forum, the Louis D. Brandeis Center for Human Rights Under Law, the National Jewish Advocacy Center, the Orthodox Jewish Chamber of Commerce, One Israel Fund, the Rieders Foundation, the StandWithUs Saidoff Legal Department, StopAntisemitism, the Union of Orthodox Jewish Congregations of America, and the Zionist Organization of America.²

Despite the efforts of *amici*, antisemitism endures. For centuries, hatred toward Jews has manifested not only in pernicious rhetoric and ideology but also in violence, murder, and terrorism. Respondents in this case—the Palestine Liberation Organization (“PLO”) and its affiliate, the Palestinian Authority (“PA”)—have been leaders in the planning, funding, and rewarding of terrorism against Jews. Respondents encourage terrorism by glorifying and compensating terrorists. This has become known as their “Pay for Slay” program. Pay for Slay is embedded in Palestinian law

¹ Counsel for *amici curiae* state that no counsel for a party authored this brief and that no person other than *amici curiae*, their members, or their counsel made a monetary contribution to the preparation or submission of this brief.

² For more details about *amici curiae*, see Appendix A.

and institutions. In its destructive path, many Americans, both Jewish and non-Jewish, have been murdered. As Jews and Americans, *amici* have a deep and abiding interest in fighting terrorism and a profound interest in this case.

SUMMARY OF ARGUMENT

Since their founding in 1964 and 1994, respectively, the PLO and PA have planned, funded, rewarded, and glorified terrorism. Determined to destroy the State of Israel, the PLO and PA ruthlessly incite violence against civilians, including Americans traveling and living abroad. Some victims have been targeted by Palestinian terrorists *because* they were American—like Leon Klinghoffer, who, in 1985, was shot in the head on an Italian cruise ship and thrown overboard in his wheelchair.

Respondents encourage the murder of civilians by rewarding the killers. Not only do they celebrate terrorists as “martyrs”—naming streets and landmarks after them—they pay terrorists and their families handsomely through stipends and long-term benefits. The more deadly the attack and the longer the terrorist spends in prison, the greater the stipends. Terrorists released from prison are rewarded with free health care, cushy jobs, and other lifetime benefits.

Respondents refer to this as the “Martyrs’ Fund,” though it is better described as “Pay for Slay.” This program is not some under-the-table arrangement by a loose band of terrorists, shelling out a few dollars. Although it began as ad hoc payments, the program grew into an official government program that distributes over \$350 million annually in compensation and stipends. It is run by a bureaucracy with hundreds of employees. It is governed by official laws and decrees.

And it is supported by the movement of money internationally, including money intended for humanitarian aid. Substantial funds are collected, managed, and then distributed to murderers and their families. The bureaucracy ensures that the checks go out on time, like some perverse version of the Department of Veterans Affairs for terrorists.

Congress has tried for years to stop Pay for Slay, recognizing that it puts not only innocent Israeli lives but also American lives in danger and impedes Middle East peace. In addition to criminal laws and limits on foreign aid, Congress has passed laws that subject Respondents to civil liability in U.S. courts. As Congress correctly understood, successful lawsuits would not only bring some justice to the victims but also deter future terrorism and help resolve otherwise intractable foreign policy problems.

Judicial decisions, however, have impeded recovery for the harm inflicted upon American citizens abroad. In a series of cases, the Second Circuit has held that Respondents are not subject to personal jurisdiction and, in one case, overturned a jury award of \$655.5 million for American victims. *Waldman v. PLO* (*Waldman I*), 835 F.3d 317, 324 (2d Cir. 2016).

Congress responded swiftly to these decisions. In its latest effort, Congress passed the Promoting Security and Justice for Victims of Terrorism Act of 2019 (“PSJVTA”) to ensure access to U.S. courts for victims. The PSJVTA specifically targets Pay for Slay: it provides that Respondents are deemed to have consented to personal jurisdiction if they continue to pay stipends to terrorists and their families for killing Americans abroad or if they conduct activities in the United

States. Respondents have done both, knowing the consequences. Yet, the Second Circuit upheld the district court's dismissal of lawsuits brought by Petitioners, holding that the PSJVTA violates the Fifth Amendment's Due Process Clause.

That decision is incorrect. The PSJVTA is a valid exercise of Congress's power to enact reasonable personal jurisdiction statutes. The Fifth Amendment does not limit Congress's ability to enact a jurisdictional statute extending to foreign conduct, nor does it constrain the power of the courts to adjudicate such cases. Even under the Fourteenth Amendment's more restrictive standards for state long-arm jurisdiction, the statute is reasonable and fair.

For one, the PSJVTA is reasonable because it is a critical tool to combat international terrorism. Without the imposition of civil liability, Pay for Slay remains well-funded. Recent events underscore this point: The PA has confirmed that its program will continue to cover not only PLO terrorists but also Hamas terrorists—including those who participated in the Hamas massacre on October 7, 2023, during which Americans were killed and taken hostage.

Subjecting Respondents to the personal jurisdiction of federal courts under the PSJVTA is also fair. While Respondents commit acts of terrorism against Americans abroad, they also advance their cause by exploiting U.S. communications, transportation, and commerce. Respondents have maintained offices in the United States and travelled here. Their representatives have participated in university lectures and interviews in America, and they continue to distribute propaganda to U.S. citizens through our media channels.

Further, Respondents have killed Americans abroad for political gain. As this Court has recognized, the “murder of a U.S. national is an offense to the United States as much as it is to the country where the murder occurred.” *Gamble v. United States*, 587 U.S. 678, 687 (2019). Respondents have received more than fair notice that they will be subject to the jurisdiction of U.S. courts for their commission of such crimes, and they have sufficient contacts in the United States to have consented to jurisdiction here. They continue to sponsor terrorism anyway.

Congress regulates the jurisdiction of the “[t]ribunals inferior to the Supreme Court.” U.S. Const. art. I, § 8, cl. 9. It enacted the PSJVTA with broad bipartisan support in response to decisions dismissing Petitioners’ lawsuits. The Executive Branch supports the legislation and has intervened to defend the statute’s constitutionality. This Court should defer to these measured judgments of the political branches. Congress and the Executive—not the Judiciary—have the constitutional role and competency to make those judgments in response to the scourge of international terrorism. This Court should reverse the Second Circuit’s decision and allow Petitioners to seek the justice they deserve—and the justice that Congress intended them to receive.

ARGUMENT

I. The PLO and PA Reward Terrorists for Killing Civilians, Including Americans

A. The PLO and PA's Early History of International Terrorism

The PLO was formed in 1964 during the Arab League Summit in Cairo, Egypt. Its founding manifesto stated that it would “attain the objective of liquidating Israel.”³ Under the leadership of Yasser Arafat, who took control in 1969, the PLO directed a handful of terrorist factions under its aegis to serve that purpose. Those included the Popular Front for the Liberation of Palestine (“PFLP”), the Democratic Front for the Liberation of Palestine, the Popular Front for the Liberation of Palestine - General Command, and Fatah, a guerrilla group that Arafat led in the early 1960s.⁴

In the late 1960s—as part of its effort to “uproot[] the Zionist entity”⁵—the PLO began terror attacks against civilians. The PLO not only planned and organized these attacks but also encouraged participation by compensating terrorists. In its infancy, the PLO did not have any official payment system or benefits

³ MARTIN GILBERT, *ISRAEL: A HISTORY* 352 (1998).

⁴ *Palestine Liberation Organization (PLO): History & Overview*, JEWISH VIRTUAL LIBRARY, <https://www.jewishvirtuallibrary.org/history-and-overview-plo> (last visited Feb. 2, 2025).

⁵ GILBERT, *supra* note 3, at 352.

schedule. It paid terrorists on an ad hoc basis through the funds it had available.⁶

The PLO's concerted reign of terror began soon after its formation. In 1968, a bus carrying Israeli schoolchildren ran over a mine laid by terrorists. Two children died, and twenty-seven were wounded. By 1971, the PLO had killed 120 civilians and injured many more in a series of brutal attacks. By the mid-1970s, that number grew substantially: In 1974, for example, the PLO murdered twenty-two school children in northern Israel in a single attack.⁷

The PLO carried out terror attacks not only in Israel but in other countries as well, including several international hijackings. In 1968, the PLO hijacked an El Al flight flying from Rome to Tel Aviv. In 1970, PLO terrorists set off a bomb on a Swissair flight, killing all forty-seven passengers and crew, and hijacked three other airliners from different countries. Two years later, PLO terrorists seized control of a Sabena airlines flight from Brussels to Tel Aviv. That same year, members of the group Black September, a militant wing of the PLO, murdered eleven Israeli athletes at the 1972 Munich Olympics in front of a world audience—its most infamous attack on foreign soil. The PLO also carried out terrorist attacks in Cyprus, Switzerland, Greece, and Paraguay throughout the 1970s.

The PLO killed and injured several Americans during this period. In 1973, Black September agents kidnapped and murdered U.S. Ambassador Cleo Noel

⁶ JIM ZANOTTI, CONG. RSCH. SERV., RS22967, U.S. FOREIGN AID TO THE PALESTINIANS 4 (2018).

⁷ See, e.g., GILBERT, *supra* note 3, at 404, 417-418, 466, 486.

Jr. and Deputy Chief of Mission George Curtis Moore in Khartoum, Sudan. In 1978, PLO terrorists killed an American-Jewish photographer named Gail Rubin in Israel before attacking tour buses with foreign travelers during the “Coastal Road Massacre.” In 1985, the PLO hijacked a cruise ship off the coast of Egypt, took passengers hostage, and murdered a wheelchair-bound American passenger named Leon Klinghoffer. One of the hijackers later explained that they wanted to kill an American and chose Klinghoffer *because* he was disabled. His execution would show they “had no pity for anyone.”⁸ As discussed below, many more Americans have died at the hands of the PLO since the 1970s and 1980s, including as recently as 2023.

Notwithstanding its terrorist activities around the world, the PLO began to attain international recognition as a legitimate political organization. In 1974, Arab leaders designated the PLO as the “sole legitimate representative of the Palestinian people,”⁹ and the United Nations—over the objection of the United States and other countries—granted the PLO “observer status” that same year.¹⁰ To support its political mission, the PLO purchased a townhouse in Manhattan and began substantial propaganda activities in the United States, such as giving speeches and interviews, purchasing and distributing pamphlets, and mailing solicitation materials. *See Klinghoffer v. S.N.C. Achille Lauro Ed Altri-Gestione Motonave*

⁸ MICHAEL K. BOHN, THE ACHILLE LAURO HIJACKING: LESSONS IN THE POLITICS AND PREJUDICE OF TERRORISM 19 (2004).

⁹ *Text of Arab Resolution at Rabat*, N.Y. TIMES (October 30, 1974).

¹⁰ G.A. Res. 3237 (XXIX), Observer Status for the Palestine Liberation Organization (Nov. 22, 1974).

Achille Lauro in Amministrazione Straordinaria, 795 F. Supp. 112, 114 (S.D.N.Y. 1992).

Arafat exploited his newfound international recognition. He even announced he would accept the existence of Israel and renounce terrorism—but his diplomacy was a smokescreen. Arafat simultaneously supplied Palestinians with Molotov cocktails, grenades, and firearms to attack Israeli civilians and soldiers.¹¹ PLO leadership issued pamphlets to Palestinians detailing when and where to attack Israelis.¹² These activities culminated in the “First Intifada”—violent protests and attacks that lasted from 1987 to 1993 and killed 160 Israelis.

In 1993, following the First Intifada, the PLO and Israel began a peace process known as the Oslo Accords. The parties agreed to an initial “Declaration of Principles” and, for the first time, recognized one another officially. The PLO and Israel entered agreements that transferred portions of Gaza and part of Judea and Samaria (commonly referred to as the “West Bank”) to Palestinian control. In 1994, the PLO created the PA to govern those areas. The PA was accountable to the PLO and could not assume any functions that the PLO did not delegate to it.¹³

¹¹ *The Intifada: 1987–1990*, ANTI-DEFAMATION LEAGUE, <https://www.adl.org/resources/backgrounders/intifada-1987-1990> (last visited Feb. 2, 2025).

¹² *The First Intifada*, JEWISH VIRTUAL LIBRARY, <https://www.jewishvirtuallibrary.org/first-intifada> (last visited Jan. 29, 2025).

¹³ *Waldman v. Palestine Liberation Org.*, No. 15-3135 (2d Cir. Mar. 25, 2019), ECF No. 305-5.

Since the signing of the Oslo Accords, the PLO has been internationally recognized as the representative of the Palestinians, including for negotiations with Israel.¹⁴ In 2012, the U.N. upgraded the PLO's status from "permanent observer" to "nonmember observer state."¹⁵

B. The PA Memorializes Pay for Slay in Palestinian Law and Creates a Large Bureaucracy to Oversee Funding

Despite purporting to renounce terrorism in the early 1990s, Respondents instead created a more robust benefits system, passing laws and establishing institutions dedicated to compensating terrorists. More than that, Respondents have used money and public glorification to weave terrorism into the fabric of their culture. By paying Palestinians more than they might earn in a society with "high unemployment and limited opportunities," Respondents not only *reward* terrorists but also *recruit* the disaffected to participate in acts of terror by offering them "social mobility."¹⁶ In so doing, Pay for Slay "institutionalizes"

¹⁴ JIM ZANOTTI, CONG. RSCH. SERV., RL34074, THE PALESTINIANS: BACKGROUND AND U.S. RELATIONS 2 (2022).

¹⁵ *Non-Member States*, UNITED NATIONS, <https://www.un.org/en/about-us/non-member-states> (last visited Feb. 2, 2025).

¹⁶ John Spencer, *Peace in Israel Isn't Possible Until Palestinians Stop Paying Terrorists to Kill*, USA TODAY (Jan. 10, 2025), <https://www.usatoday.com/story/opinion/2025/01/10/palestinian-authority-terror-payments-holocaust-survivor-israel/77543726007/>.

terrorism as “a viable alternative to legitimate societal progress” and “perpetuates a cycle of violence.”¹⁷

Pay for Slay first took shape as an institution in 1998, when Arafat created the “Ministry of Prisoners Affairs” to administer payments to imprisoned terrorists.¹⁸ This new organization helped fuel the “Second Intifada,” a much more violent uprising than the first, from 2000 to 2005. Palestinian military factions, many under the aegis of the PLO, carried out over 100 suicide bombings, murdering over 1,000 Israelis and dozens of foreign nationals.

Many of those killed by PLO factions were American citizens. Those included Esther Klieman, 23, of Chicago, Illinois, who was shot and killed near Ofra in March of 2002. Avi Boaz, 71, who had immigrated to Israel 40 years earlier, was kidnapped and killed at a PA checkpoint in Beit Jala in January 2002. Other Americans suffered serious injuries. The Sokolow family—Mark, Rena, Jamie, and Lauren—were seriously injured in January 2002 after a PA intelligence agent followed them around a shoe store and then blew herself up in their midst. Five days earlier, a corporal in the PA maritime police force shot members of the Waldman family with an M-16 assault rifle on a crowded street in western Jerusalem. The PA’s file on

¹⁷ *Id.*

¹⁸ EDWIN BLACK, FINANCING THE FLAMES: HOW TAX-EXEMPT AND PUBLIC MONEY FUEL A CULTURE OF CONFRONTATION AND TERROR IN ISRAEL 188 (2013).

the shooter stated: “He was martyred while performing his national duty.”¹⁹

The PA’s Ministry of Prisoners’ Affairs rewarded the terrorist killers who perpetrated the Second Intifada. By 2002, the monthly salaries paid to terrorist prisoners reached \$9.6 million—“a 246 percent increase over the prior administration’s payouts” that grew at a far faster rate than the terrorist prisoner population.²⁰

The PA’s Ministry of Prisoners’ Affairs continued its payment arrangements through Arafat’s death in 2004, when Mahmoud Abbas became Chairman of the PLO and President of the PA. That year, the PA further institutionalized Pay for Slay by passing laws expanding upon and detailing the rewards. The laws provided that any individual imprisoned for “his participation in the struggle against the occupation”—*i.e.*, efforts to destroy Israel—was legally eligible for such payments.²¹

Over the years, Respondents continued to refine their Pay for Slay laws and institutions. Today, three Palestinian laws—Laws No. 14 and No. 19 of 2004,

¹⁹ Edwin Black, *PA Studies Details of Each Terrorist Act Before Issuing Salaries*, TIMES OF ISRAEL (Feb. 6, 2015), <https://www.timesofisrael.com/pa-studies-details-of-each-terrorist-act-before-issuing-salaries/>.

²⁰ BLACK, *supra* note 18, at 189.

²¹ Amended Palestinian Prisoners Law, 2004/19, art. 1 (2004) (Palestinian Authority) (“Law No. 19”).

and Law No. 1 of 2013²²—govern payments to imprisoned terrorists and the families of deceased terrorists. Law No. 19, Art. 2 eulogizes terrorists who commit acts of violence, as “a fighting sector and an integral part of the fabric of the Arab Palestinian society.”²³ In turn, the PA “grant[s] every incarcerated prisoner a monthly salary, without discrimination,” as well as a clothing allowance.²⁴ Under governing law, the monthly salary is a function of the terrorist’s time in prison—the more time, the more government support. This arrangement ensures that those who engage in the deadliest crimes are the most rewarded.²⁵

The financial support continues after imprisonment. Under a 2013 amendment to Law No. 19, each terrorist is awarded a one-time grant upon release based years in prison served.²⁶ Those who serve more than eight years receive \$4,500, while those who serve thirty years or more receive \$25,000.²⁷ Additionally, terrorists who serve five years or more are exempt from tuition for government schools, universities, and

²² Law on Aid for Prisoners in Israeli Prisons, 2004/14 (2004) (Palestinian Authority) (“Law No. 14”); Decree Law No. 1 on the Amendment of the Prisoners and Released Prisoners Law No. 19, 2013/1 (2013) (Palestinian Authority) (“Law No. 1”).

²³ Law No. 19, *supra* note 21, art. 2.

²⁴ *Id.* art. 6.

²⁵ Government Decision No. 23 (2010) (Palestinian Authority).

²⁶ Law No. 1, *supra* note 22, art. 5.

²⁷ Nathan Diament, *How to End the Palestinian Authority’s ‘Pay-for-Slay’ Laws*, JERUSALEM POST (Mar. 5, 2017), <https://www.jpost.com/Opinion/How-to-end-the-Palestinian-Authoritys-pay-for-slay-laws-483308>.

professional training programs, and from health insurance costs. The PA also guarantees employment to released terrorist prisoners, giving them priority for government roles.

Along with codifying Pay for Slay into law, the PA established two organizations to ensure its success. The Foundation for the Care of Families of the Martyrs (the “Foundation”) oversees payments to the families of Palestinian terrorists injured or killed while committing terror attacks.²⁸ The Commission for Prisoners and Ex-Prisoners (the “Commission”) administers payments and benefits to terrorists imprisoned (or formerly imprisoned) for committing terrorist acts.²⁹ The Commission is housed within the PLO.

Payments from both the Foundation and the Commission are funded by the PA’s Ministry of Finance. Although the PA’s Ministry of Prisoners’ Affairs originally distributed the payments to imprisoned terrorists, payments have been disbursed through the Commission since 2014. This shift was to appease PA donor countries who were disinclined to send aid because of Pay for Slay.³⁰ Money is fungible, however,

²⁸ David Makovsky et al., *If Palestinians Are Serious About Peace, ‘Martyr’ Violence Should Not Pay*, WASH. POST (Apr. 6, 2017), <https://www.washingtonpost.com/news/global-opinions/wp/2017/04/06/if-palestinians-are-serious-about-peace-martyr-violence-should-not-pay/>.

²⁹ Yossi Kuperwasser, *Incentivizing Terrorism: Palestinian Authority Allocations to Terrorists and their Families*, JERUSALEM CTR. FOR PUB. AFF. (2017), <https://jcpa.org/paying-salaries-terrorists-contradicts-palestinian-vows-peaceful-intentions/>.

³⁰ *Id.*

and financing for “martyr payments” still originates from the PA.³¹

Each year, a substantial portion of the PA’s overall budget—approximately eight percent—goes to terrorists,³² rather than to assisting civilians or encouraging peace. According to reports from 2017, the PA’s Foundation “has an annual budget of \$173 million and operates within the Palestinian Authority’s Ministry of Social Affairs.”³³ In 2017, a report found that 13,000 men and women are beneficiaries of the prisoner payments, for a total of about \$160 million, and approximately 33,700 families shared in about \$183 million of “martyr” payments.³⁴

These grim statistics are not surprising, considering the degree to which leadership celebrates terrorists and to which the system is embedded in Palestinian culture. The PLO and PA glorify “*shahids*” (or martyrs), with January 7 as a day for honoring “the Palestinian Shahid.” The Palestinian National Council (the legislative body of the PLO) designated April 17 as “Palestinian Prisoners’ Day.”

³¹ *Id.*

³² Editorial Board, *Your Aid Dollars for Palestinian Terrorists*, WALL ST. J. (Jan. 4, 2024), <https://www.wsj.com/articles/palestinian-authority-hamas-terrorists-payments-israel-gaza-oct-7-898c5a4b>.

³³ See Makovsky et al., *supra* note 28.

³⁴ Glenn Kessler, *Does the Palestinian Authority Pay \$350 Million a Year to ‘Terrorists and Their Families?’* WASH. POST (March 14, 2018), <https://www.washingtonpost.com/news/fact-checker/wp/2018/03/14/does-the-palestinian-authority-pay-350-million-a-year-to-terrorists-and-their-families/>.

Palestinian leadership is not shy about supporting terrorism. In November 2019, Abbas glorified terrorists by honoring “[t]hese martyrs, these commanders ... all of the heroic martyrs who have died for Allah, who sacrificed for Allah and the Palestinian cause.”³⁵ And Abbas promised that the PA was “still continuing on their path.”³⁶ The next month, Palestinian Legislative Council member Mahmoud al-Aloul extolled terrorists on TV: “How great is the suffering and pain of the prisoners who are dear to our hearts ... wonderful fighters of whom we are proud.”³⁷

C. Respondents Continue to Expand Pay for Slay

In spite of international efforts to end Pay for Slay, Respondents have taken great pains to expand their system of terror incentives, even in the last few years. Facing recent economic challenges, the PA and the PLO nonetheless have continued to funnel money through their terrorism financing system, spending roughly \$350 million each year on “martyrs” while spending just over \$200 million on welfare programs for the rest of Palestinian society.³⁸

³⁵ U.S. DEP’T OF STATE, REPORT PURSUANT TO SECTION 804 OF THE PALESTINE LIBERATION ORGANIZATION COMMITMENTS COMPLIANCE ACT OF 1989 AND SECTIONS 603-604 AND 699 OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FY 2003 (P.L. 107-228) 14 (2020) (“April 2020 Report”).

³⁶ *Id.*

³⁷ *Id.*

³⁸ Eric Mandel, *Will Biden Circumvent US Law Against ‘Pay for Slay?’*, JERUSALEM POST (Apr. 3, 2021), <https://www.jpost.com/american-politics/will-biden-circumvent-us-law-against-pay-for-slay-664006>.

Respondents have no intention of winding down Pay for Slay on their own: Since the heinous Hamas terror attack of October 7, 2023, the PA has *expanded* its list of terrorists eligible for government salaries to include those who participated in that attack, which involved the murder and kidnapping of dozens of Americans. In January 2024, the PA announced that an additional 3,550 imprisoned terrorists would be recognized as eligible for compensation, bringing the total to 8,800.³⁹ This 67% increase in the number of prisoners costs the PA and PLO an additional \$1.3 million per month.

When announcing new “martyrs” eligible for payments, the PA’s official newspaper *Al-Hayat Al-Jadida* stated that “Palestine’s Martyrs constitute a medal of honor for our people. They are the symbol of freedom and self-sacrifice, and they are the stars who do not disappear from our skies. They perfume our land with their deep-red and fragrant blood, and they are more honored than us all.”⁴⁰ Respondents’ decision to increase the payments to prisoners and “martyrs” reflects a deep commitment to violence. According to reports last year, the PA cut the salaries of its nearly 145,000 employees by 30 to 50 percent because

³⁹ Itamar Marcus, *PA’s “Pay-for-Slay” Payments to Rise by \$1.3 Million Per Month*, PALESTINIAN MEDIA WATCH (Jan. 10, 2024), <https://palwatch.org/page/34924>; see also Editorial Board, *Palestinian ‘Pay for Slay’ Keeps Growing*, WALL ST. J. (Jan. 15, 2024), <https://www.wsj.com/articles/palestinian-pay-for-slay-hamas-oct-7-israel-gaza-antony-blinken-ramallah-2dce9a22>.

⁴⁰ *Id.*

of budget deficits.⁴¹ Despite these dismal economic indicators, the PA expanded Pay for Slay.

The United States government has recognized that Pay for Slay continues in violation of the PLO's Oslo commitments to renounce and prevent terrorism. As part of the Foreign Relations Authorization Act, Congress required the Executive to report on progress in that regard.⁴² In documents declassified under the Freedom of Information Act, the Secretary of State in 2020 and 2021 reported that “[t]he PA continued to make payments to Palestinians connected to terrorism.”⁴³ Further, the State Department found that the PA pays terrorists \$12 million per month, and that “the PLO and the PA are not in compliance with certain commitments to prevent violations, discipline violators, and assume responsibility over all PLO elements.”⁴⁴

In addition to paying terrorists, the PLO and PA continue to celebrate them in public statements and official documentaries in which “individuals involved

⁴¹ Neomi Neumann, *West Bank Economics Are Key to Stabilizing the Palestinian Authority—or Forcing Its Collapse*, WASH. INST. FOR NEAR E. POL. (May 31, 2024), <https://www.washingtoninstitute.org/policy-analysis/west-bank-economics-are-key-stabilizing-palestinian-authority-or-forcing-its>.

⁴² Foreign Relations Authorization Act, Pub. L. No. 107-228, § 603(a)–(b), 116 Stat. 1350, 1395 (2002).

⁴³ U.S. DEP'T OF STATE, REPORT PURSUANT TO SECTION 804 OF THE PALESTINE LIBERATION ORGANIZATION COMMITMENTS COMPLIANCE ACT OF 1989 AND SECTIONS 603-604 AND 699 OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FY 2003 (P.L. 107-228) 1 (2021) (“April 2021 Report”).

⁴⁴ April 2020 Report, *supra* note 35, at 12, 15.

in serious attacks [are] celebrated.”⁴⁵ According to the State Department, “[g]lorification of terrorism occurred in PA-controlled schools and media outlets, including official PA TV and social media accounts affiliated with President Abbas’s Fatah political party.”⁴⁶

D. Many Americans, Including Petitioners, Have Been Murdered or Maimed Because of Pay for Slay

Pay for Slay has caused and rewarded the deaths of many Americans. The families of those victims still suffer today, not only from their tragic losses, but also because the murderers of their loved ones are celebrated and paid for their evil. Below is an inexhaustive list of Americans killed or severely injured by the PLO or PA since the 1980s. Every terrorist responsible for these attacks is eligible for and likely receives payment under Pay for Slay.

Serena Sussman. On December 19, 1983, Serena Sussman of South Carolina succumbed to her wounds after terrorists bombed a bus in Jerusalem thirteen days earlier.

Trans World Airlines Flight 840. On April 2, 1986, a Palestinian terrorist detonated a bomb on a flight from Rome to Athens, killing four Americans: Alberto Ospino, 39, of Stratford, Connecticut; Demetra Stylian, 52, of Annapolis, Maryland; her daughter, Maria Klug, 25, of Annapolis, Maryland; and her granddaughter, Demetra, 9 months old.

Mara Frey’s Unborn Child. On September 9, 1995, a Palestinian terrorist stabbed Mara Frey of

⁴⁵ *See, e.g., id.* at 10.

⁴⁶ *Id.* at 14.

Chicago, Illinois, in Ma'ale Michmash. She was pregnant and her unborn child was killed.

Rabbi Hillel Lieberman. On October 7, 2000, Palestinian terrorists stabbed to death Rabbi Hillel Lieberman, 36, while he was on his way to visit Joseph's Tomb.

Jacob Mandell. On May 9, 2001, Jacob Mandell, 13, of Maryland, was found bludgeoned to death alongside his friend in a cave in Tekoah after going on a hike. His death was later attributed to Palestinian terrorists.

Sarah Blaustein. On May 29, 2001, terrorists killed Sarah Blaustein, 53, of New York, in a drive-by shooting near Efrat.

Avraham (Avi) Boaz. On January 15, 2001, terrorists kidnapped Avi Boaz, 71, at a PA security checkpoint. His body was found riddled with bullets.

Marla Bennett, Ben Blutstein, Dina Carter, Janis Ruth Coulter, and David Gritz. On July 31, 2002, five young Americans were having lunch at Hebrew University when a bomb packed with shrapnel exploded, killing them and four others. Ben's mother was watching the news and saw his distinctive pink sneakers, at which point she knew her son had been killed. The families of Ben, Dina, Janis, and David are Petitioners here.

Esther Klieman. On March 24, 2002, terrorists shot and killed Esther Klieman with machine guns while they attacked a bus near Neve Tzuf in Israel.

Keren Shatsky and Rachel Thaler. On February 16, 2002, Keren Shatsky, 14, of New York, and

Rachel Thaler, 16, of Maryland, were killed in a Palestinian bombing attack outside a pizza parlor in Karnei Shomron.

Abigail Leitel. On March 5, 2003, Abigail Leitel, 14, born in Lebanon, New Hampshire, was killed in a suicide bombing attack on a bus in Haifa.

Taylor Force. On March 8, 2016, a terrorist stabbed several individuals in Tel Aviv, killing Taylor Force, 28, of Lubbock, Texas. Force was a West Point graduate and served tours of duty in Afghanistan and Iraq.

Ari Fuld. On September 16, 2018, a Palestinian terrorist stabbed to death Ari Fuld, 45, a father of four and formerly of New York. Fuld was stabbed multiple times in the back and neck while standing outside a grocery store in Gush Etzion Junction. Fuld's family members are Petitioners in this case.

Elan Ganeles. On February 27, 2023, two Palestinian terrorists gunned down Elan Ganeles, 27, of Hartford, Connecticut, while he was in his car traveling on a highway between Jericho and the Dead Sea.⁴⁷

⁴⁷ For more on these and other attacks, see H.R. Con. Res. 144, 109th Cong. (2005), and Caroline Taillandier et al., *American Victims of Terrorist Attacks (1970-Present)*, JEWISH VIRTUAL LIBRARY, <https://www.jewishvirtuallibrary.org/american-victims-of-terrorist-attacks> (last visited Jan. 29, 2025).

II. Congress Has Imposed Civil Liability to Deter International Terrorism, Defeat Pay for Slay, and Secure Justice for Victims

Congress has repeatedly enacted legislation to defeat Pay for Slay and impede terrorism against Americans abroad. In the 1980s, Congress declared the PLO a terrorist organization and sought to cut off its access to both funding and the benefits of operating in the United States. In 1992, Congress created a cause of action for victims of foreign terrorism, recognizing that civil liability would help bring justice to victims and deter future terrorism.

This case arises against the backdrop of a ten-year back-and-forth between Congress and a Second Circuit panel regarding Petitioners' ability to sue the Respondents in federal courts. In response to the panel's decisions, Congress has several times amended the applicable statute to ensure jurisdiction over Respondents. Its years-long, bipartisan efforts to empower U.S. terror victims to seek recourse in federal court culminated in the PSJVTA, the statute at issue in this case.

A. Congress Passes and Strengthens the Anti-Terrorism Act

After members of Congress were unable to persuade the State Department to close the PLO offices in the United States in the late 1980s, Congress enacted the Anti-Terrorism Act of 1987.⁴⁸ It determined that “the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and to international law and should

⁴⁸ Pub. L. No. 100-204, tit. X, 101 Stat. 1331, 1406 (codified at 22 U.S.C. §§ 5201-5203).

not benefit from operating in the United States.” 22 U.S.C. § 5201(b). Soon after, the Government sued to close the PLO’s offices in the United States. A court held that it had personal jurisdiction over the PLO but that the statute did not require the closure of the PLO’s Permanent Observer Mission to the U.N. *See United States v. Palestine Liberation Org.*, 695 F. Supp. 1456, 1471 (S.D.N.Y. 1988).

In the wake of the terror attacks of the 1970s and 1980s, Congress enacted the Anti-Terrorism Act of 1992 (“ATA”), which provided a private right of action for American nationals and their families killed or injured by international terrorism to sue those responsible, as well as their supporters, when such terrorism “occur[s] primarily outside the territorial jurisdiction of the United States.” 18 U.S.C. § 2331(1)(C).

The death of Leon Klinghoffer and his estate’s suit against the PLO demonstrated that a civil suit would be difficult without a private right of action: “Only by virtue of the fact that the attack violated certain Admiralty laws and that the [PLO] had assets and carried on activities in New York, was the court able to establish jurisdiction over the case.”⁴⁹ Accordingly, Congress designed the ATA to ensure that civil actions could be brought following “[a] similar attack occurring on an airplane or in some other [foreign] locale [that] might not [otherwise] have been subject to civil action in the U.S.”⁵⁰ The 1992 amendments were intended to remove jurisdictional hurdles and provide treble damages to the victims.

⁴⁹ H.R. Rep. No. 102-1040, at 5 (1992).

⁵⁰ 137 Cong. Rec. S4511-04 (1991) (Sen. Grassley).

The bill's principal sponsor, Senator Chuck Grassley, explained that these tools not only were necessary to bring justice to the victims but also would help choke off the financial supply to future terrorist activities.⁵¹ Civil litigation is critical to buttressing government anti-terrorism efforts, providing "an invaluable supplement to the criminal justice process and administrative blocking orders."⁵² Without civil liability, there would be a substantial "gap" in America's anti-terrorism strategy.⁵³

B. American Victims of Terrorism Are Denied Access to Justice; Congress Responds

In 2004, eleven American families sued both the PA and the PLO in federal court on behalf of family members who were killed during the Second Intifada. A jury found the PA and the PLO liable and awarded the plaintiffs \$655.5 million. *Sokolow v. Palestine Liberation Org.*, No. 04-cv-397 (S.D.N.Y. Oct. 1, 2015). The State Department filed a Statement of Interest, representing that "the United States strongly supports the rights of victims of terrorism to vindicate

⁵¹ 138 Cong. Rec. 33628-29 (1992) (Sen. Grassley); *see also* 136 Cong. Rec. S7592 (daily ed. Apr. 19, 1990) (Sen. Grassley).

⁵² JIMMY GURULÉ, UNFUNDING TERROR: THE LEGAL RESPONSE TO THE FINANCING OF GLOBAL TERRORISM 325 (2008); *see also* Jack D. Smith & Gregory J. Cooper, *Disrupting Terrorist Financing with Civil Litigation*, 41 CASE W. RES. J. INT'L L. 65, 66 (2009) ("Disrupting funding flows creates a hostile environment for terrorism, constraining the overall capabilities of terrorists and helping frustrate their ability to execute attacks." (citation omitted)).

⁵³ 136 Cong. Rec. S14283 (1990) (Sen. Grassley); *see also* 136 Cong. Rec. S14279, S14284 (1990) (Sen. Grassley).

their interests in federal court and to receive just compensation for their injuries,” and that the ATA “advances U.S. national security interests ... in combating and deterring terrorism at every level, including by eliminating sources of terrorist funding.”⁵⁴

The Second Circuit reversed and vacated the jury award. *Waldman I*, 835 F.3d at 322. It held that the trial court lacked personal jurisdiction over the defendants because the terrorist attacks “were not sufficiently connected to the United States” to establish personal jurisdiction in federal courts. *Id.* at 337. The House of Representatives, several senators, and former federal officials filed bipartisan *amici* briefs supporting Petitioners.⁵⁵ This Court denied certiorari.⁵⁶

Congress responded by passing the Anti-Terrorism Clarification Act of 2018 (“ATCA”)⁵⁷ to “ensure that victims of international terrorism can obtain justice in United States courts.”⁵⁸ The House Judiciary Committee explained the law was intended to overturn the “flawed Second Circuit decision.”⁵⁹ The bill passed both chambers of Congress by unanimous consent and

⁵⁴ Decl. of Antony J. Blinken ¶ 5, *Sokolow*, No. 04-cv-397 (S.D.N.Y. Oct. 1, 2015), D.E. 953-1.

⁵⁵ Brief *Amici Curiae* of United States Senators Charles E. Grassley, et al., *Sokolow v. Palestine Liberation Org.*, 584 U.S. 915 (2018) (No. 16-1071); Brief *Amicus Curiae* of U.S. House of Representatives, *Sokolow*, 584 U.S. 915 (No. 16-1071); Brief *Amici Curiae* of Former Federal Officials, *Sokolow*, 584 U.S. 915 (No. 16-1071).

⁵⁶ *Sokolow*, 584 U.S. 915.

⁵⁷ Pub. L. No. 115-253, 132 Stat. 3183 (2018).

⁵⁸ H.R. Rep. No. 115-858, at 2 (2018).

⁵⁹ *Id.* at 6.

was signed into law on October 3, 2018.⁶⁰ The ATCA provided that a defendant consented to personal jurisdiction in U.S. federal courts in suits concerning acts of international terrorism if the defendant accepted certain forms of U.S. foreign aid or benefited from a waiver of the 1987 Anti-Terrorism Act.⁶¹

To avoid litigation under the ATCA, Palestinian leadership announced it would no longer accept those forms of U.S. aid.⁶² Accordingly, the D.C. Circuit ruled it did not have jurisdiction over the PA under the ATCA. *Estate of Klieman v. Palestinian Auth.*, 923 F.3d 1115, 1128 (D.C. Cir. 2019).

In addition to the ATCA, Congress passed the Taylor Force Act,⁶³ recognizing that “[t]he Palestinian Authority’s practice of paying salaries to terrorists serving in Israeli prisons, as well as to the families of deceased terrorists, is an incentive to commit acts of terror.”⁶⁴ The Act is named for Taylor Force, whose murderer received a monthly pension from the PA three

⁶⁰ Pub. L. No. 115-253, 132 Stat. 3183.

⁶¹ *Id.*

⁶² See Elior Levy, *Exclusive: PA’s Letter to Pompeo Rejecting US Aid, Fearing Terror Lawsuits*, YNET NEWS (Jan. 20, 2019), <https://www.ynetnews.com/articles/0,7340,L-5449921,00.html>.

⁶³ The legislation was named after Taylor Force, the U.S. citizen and veteran who was stabbed to death in 2016 by a Palestinian terrorist. *Supra* section I.D.

⁶⁴ Pub. L. No. 115-141, div. S, tit. X, § 1002, 132 Stat. 348, 1143 (2018).

times the average salary in the West Bank.⁶⁵ To inhibit Pay for Slay, the Act halts all economic support funds⁶⁶ that “directly benefit” the PA unless the U.S. Secretary of State can certify that the PA has taken steps to end violence against the United States and Israel, condemned terrorism, and ended payments to terrorists.⁶⁷ Failing to do so, the PA has since forfeited almost \$1 billion in aid.⁶⁸

C. In Its Latest Attempt to Fight Pay for Slay, Congress Enacts the PSJVTA

Determined to combat terrorism through civil liability against those who kill or injure Americans abroad, Congress enacted the PSJVTA of 2019 with broad bipartisan support.⁶⁹ Co-sponsor Senator Grassley stated at the time of the bill’s passage:

The PLO and Palestinian Authority’s “pay to slay” policies are nothing short of an incitement for further acts of terrorism. Connecting these payments to jurisdiction in

⁶⁵ Irit Tratt, *Is the Biden Administration Enabling Palestinian Pay-for-Slay?*, ALGEMEINER (June 14, 2021), <https://www.algemeiner.com/2021/06/14/is-the-biden-administration-enabling-palestinian-pay-for-slay/>.

⁶⁶ With exceptions provided for funding the East Jerusalem Hospital Network, wastewater projects, and vaccination programs.

⁶⁷ 22 U.S.C. § 2378c-1.

⁶⁸ Maurice Hirsch, *What Is the U.S. Government Doing to Enforce the Taylor Force Act?*, JERUSALEM CTR. FOR SEC. & FOREIGN AFFS. (Feb. 12, 2024), <https://jcpa.org/what-is-the-u-s-government-doing-to-enforce-the-taylor-force-act/>.

⁶⁹ Pub. L. No. 116-94, div. J, tit. IX, § 903, 133 Stat. 2534, 3082-86 (2020).

ATA cases is perhaps the least Congress should do to further discourage such conduct and protect Americans abroad. The bill also sends a clear signal that Congress intends to empower courts to restore jurisdiction in cases previously dismissed.⁷⁰

Co-sponsors Senator Grassley and Senator James Lankford reiterated this view in a letter to the Biden Administration in March 2021, noting that “the PSJVTA was the result of constructive work between Congress and the State Department, reflecting a bipartisan agreement to reopen the courthouse doors to American victims and their families,” and that “it is reasonable for the United States to condition the PLO and PA’s establishment of an office in the United States on their consent to personal jurisdiction in cases that allege they have engaged in or provided material support for terrorist attacks injuring U.S. nationals and their families.”⁷¹

The PSJVTA imposes two general bases of consent to personal jurisdiction. The first provides that personal jurisdiction is proper if, 120 days after the PSJVTA’s enactment, Respondents pay a terrorist who has been imprisoned for committing any act of terrorism that injured or killed an American, and was paid because of his imprisonment; or, if such a pay-

⁷⁰ 165 Cong. Rec. S7183 (daily ed. Dec. 19, 2019) (Sen. Grassley).

⁷¹ Letter from James Lankford & Chuck Grassley, Sens., to Antony Blinken, Sec’y of State, (March 31, 2021), <https://www.lankford.senate.gov/wp-content/uploads/media/doc/Lankford%20Grassley%20Letter%20to%20Secretary%20Blinken.pdf>.

ment is made to the terrorist's family because the terrorist was killed while committing the act of terrorism. *See* 18 U.S.C. § 2334(e)(1)(A)(i)-(ii).

The second basis provides that Respondents consent to jurisdiction if, fifteen days after the PSJVTA's enactment, they procure, establish, or maintain "any office, headquarters, premises, or other facilities or establishments in the United States," or otherwise conduct any activities on behalf of the PLO while physically present in the United States. *Id.* § 2334(e)(1)(B)(i)-(iii).

These jurisdictional bases were carefully crafted to ensure that the PLO and PA have fair warning of when they may be answerable for their actions in a U.S. court, consistent with the Fifth Amendment's Due Process Clause.

III. The PSJVTA Is a Constitutional Exercise of Congress's Authority to Enact Reasonable Personal Jurisdiction Statutes, and a Critical Tool for Combating Terrorism

An exercise of personal jurisdiction satisfies due process if the defendant received "fair warning" that "a particular activity may subject [them] to the jurisdiction of a foreign sovereign," and if the exercise of jurisdiction is "reasonable, in the context of our federal system." *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 358-360 (2021) (internal quotations omitted). The PSJVTA meets both of those requirements.⁷²

⁷² *Amici* agree with Petitioners that the Fifth Amendment does not limit Congress's ability to extend jurisdiction here. Still, the PSJVTA satisfies traditional notions of fair play and substantial

First, Respondents have received adequate notice that their actions may subject them to the jurisdiction of American courts. The PLO and PA are sophisticated international organizations with substantial funding and recognition as the official representatives of the Palestinian people. They purposefully avail themselves of the United States to advance their political causes. Their various contacts with the United States and its citizens—including killing Americans abroad to attain their goal of eliminating Israel—makes personal jurisdiction fair. As Judge Steven J. Menashi explained in his Second Circuit dissent, Respondents have been “residing and conducting business in the United States—not to mention furthering their political goals at the expense of American lives.” *Fuld v. Palestine Liberation Org.*, 101 F.4th 190, 205 (2d Cir. 2024) (denying rehearing *en banc*) (Menashi, J., dissenting).

The record shows that the PLO and PA have maintained a presence in the United States for years, not only to attend U.N. sessions in New York but also to influence American public opinion more broadly. Among other things, the PLO and PA have had offices in New York with over a dozen employees, have participated in interviews and press conferences, and have exploited American communications to advance their causes. *See Klinghoffer*, 795 F. Supp. at 114. The general delegation of the PLO registered as foreign agents under FARA as late as 2018.⁷³ The PLO also had “a substantial commercial presence in the United

justice applicable under the Fourteenth Amendment for state long-arm jurisdiction.

⁷³ *See, e.g.*, JA149-150.

States,” with dozens of phone numbers, office supplies, and living expenses for the U.S.-based representatives. *Waldman I*, 835 F.3d at 323.

Even after the PSJVTA was enacted, the PLO and PA have directed activities at and in the United States, such that they cannot reasonably contend it is “fundamentally unfair” for them to be sued here. On February 11, 2020, PA leader Mahmoud Abbas held a press conference in New York City in which he criticized U.S. foreign policy.⁷⁴ In 2020, the PA received legal and strategic policy advice from a FARA-registered, U.S.-based law firm.⁷⁵ On October 4, 2022, Secretary General of the PLO Hussein Al-Sheikh met with Assistant to the President for National Security Affairs, Jake Sullivan, at the White House.⁷⁶ Husam Zomlot, a senior member of Fatah, appeared on the

⁷⁴ *Olmert and Abbas Meet in New York, Urge Direct Talks as Trump Plan Rejected*, TIMES OF ISRAEL (Feb. 11, 2020), <https://www.timesofisrael.com/netanyahu-livid-as-olmert-meets-abbas-urges-renewed-peace-talks/>.

⁷⁵ JA147-148.

⁷⁶ Statement, Adrienne Watson, Spokesperson, National Security Council, Statement by NSC Spokesperson Adrienne Watson on National Security Advisor Jake Sullivan’s Meeting with Secretary General of the Palestine Liberation Organization Hussein Al-Sheikh (Oct. 4, 2022), <https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2022/10/04/statement-by-nsc-spokesperson-adrienne-watson-on-national-security-advisor-jake-sullivans-meeting-with-secretary-general-of-the-palestine-liberation-organization-hussein-al-sheikh/>.

CBS news program, *Face the Nation*, in November 2023.⁷⁷

The PLO and PA also use American social media, appear at and donate to American universities, and publish propaganda in English—all to influence American public opinion.⁷⁸ In 2020, the PA’s top official in the United States, Riyad Mansour, attended a seminar hosted by Seton Hall University and a “webinar” hosted by a U.S. not-for-profit group.⁷⁹ In April 2024, a student group at Columbia University hosted Khaled Barakat—reportedly a member of the U.S.-designated terrorist group PFLP, a faction of the PLO—and other anti-Israel speakers on a Zoom program.⁸⁰ The pro-terror Al Quds University, which is administered by the PA, has a joint program with Bard College.⁸¹ Reportedly, Al Quds University has

⁷⁷ *Transcript: Husam Zomlot, Palestinian Ambassador to the United Kingdom, on “Face the Nation,”* CBS NEWS (Nov. 5, 2023), <https://www.cbsnews.com/news/husam-zomlot-palestinian-ambassador-to-the-united-kingdom-face-the-nation-transcript-11-05-2023/>.

⁷⁸ JA281-285, 410-412.

⁷⁹ Jasmine DeLeon, *Palestinian Ambassador to the UN Speaks on Middle East Peace Plan*, SETON HALL UNIV. (Dec. 2, 2020), <https://www.shu.edu/diplomacy/news/diplomacy-students-hear-from-palestine-s-un-ambassador.html>.

⁸⁰ Emily Forgash & Esha Karam, *University’s Treatment of Student-Sponsored Speakers Sparks Debate on Free Speech Principles*, COLUMBIA SPECTATOR (Apr. 17, 2024), <https://www.columbiaspectator.com/news/2024/04/17/university-s-treatment-of-student-sponsored-speakers-sparks-debate-on-free-speech-principles/>.

⁸¹ *About Al-Quds Bard College*, AL-QUDS UNIV., <https://bard.alquds.edu/en/about-aqb.html> (last visited Jan. 30, 2025).

“cooperation agreements/projects” with George Washington University, Wayne State University, the Johns Hopkins School of Public Health, the University of California at Berkeley, and George Mason University.⁸² And entities within the Palestinian territories under the control of the PA have donated substantial sums to U.S. universities.⁸³ These many contacts with the United States show that it would not be unfair to subject the PLO or the PA to the jurisdiction of American federal courts.

Second, when balancing the competing interests of Respondents against federal interests, the latter are extremely weighty. As explained, the political branches have concluded that the PSJVTA is an *essential* tool for combating global terrorism which results in the death and maiming of Americans. This is the most compelling federal interest. *See Holder v. Humanitarian L. Project*, 561 U.S. 1, 28 (2010) (“Everyone agrees that the Government’s interest in combating terrorism is an urgent objective of the highest order.”). Accordingly, the PSJVTA is a constitutional exercise of Congress’ authority to enact personal jurisdiction statutes that are fair and reasonable. As legislators concluded, “[i]t is eminently reasonable to condition” the PA’s and PLO’s “continued presence in the

⁸² *US Colleges That Partner with Al Quds University, Take Heed*, JEWISH LINK (July 8, 2021), <https://jewishlink.news/us-colleges-that-partner-with-al-quds-university-take-heed/>.

⁸³ *See Section 117 Foreign Gift and Contract Data*, FEDERAL STUDENT AID, <https://fsapartners.ed.gov/knowledge-center/topics/section-117-foreign-gift-and-contract-reporting/section-117-foreign-gift-and-contract-data> (last updated Nov. 7, 2024) (collecting data on “foreign gifts and contracts that institutions of higher education reported to the U.S. Department of Education”).

United States on [their] consent to jurisdiction,” as “Congress has repeatedly tied their continued receipt of these privileges to their adherence to their commitment to renounce terrorism.”⁸⁴ Yet neither the PA nor the PLO has renounced terrorism.

Congress constitutes and structures the jurisdiction of the lower courts. U.S. Const. art. I, § 8, cl. 9. Congress has tried to use that power to fight international terrorism by providing a statutory basis for civil liability when Americans are killed or injured abroad. That is within Congress’s ken: “Congress has the authority to enforce its laws beyond the territorial boundaries of the United States.” *E.E.O.C. v. Arabian Am. Oil Co.*, 499 U.S. 244, 248 (1991). This Court “has repeatedly upheld [Congress’s] power to make laws applicable to persons or activities beyond our territorial boundaries where United States interests are affected.” *Hartford Fire Ins. Co. v. California*, 509 U.S. 764, 813-814 (1993). As Judge Menashi explained, “the Fifth Amendment does not leave Congress powerless to afford relief to American victims of international terrorism.” *Fuld*, 101 F.4th at 223 (Menashi, J., dissenting).

In weighing the federal interests to determine whether the exercise of jurisdiction is reasonable here, this Court should defer to the political branches. The Court has stressed that “congressional authority regarding foreign affairs” is “a domain in which the controlling role of the political branches is both necessary and proper.” *Bank Markazi v. Peterson*, 578 U.S. 212, 234 (2016); *see also Holder*, 561 U.S. at 33-34 (Congress and the Executive are “entitled to deference”

⁸⁴ H.R. Rep. No. 115-858, at 7 (2018).

when it comes to “sensitive and weighty interests of national security and foreign affairs”). Given that Congress—on a strong, bipartisan basis—has tried several times to override decisions of the lower courts and subject Respondents to jurisdiction, this Court should respect that determination. Doing so will help bring justice to American victims of terrorism and deter future activity that puts American lives at risk.

CONCLUSION

This Court should reverse the decision of the Second Circuit.

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APPENDIX A

AMICI CURIAE

Agudath Israel of America is a national grassroots Orthodox Jewish organization that articulates and advances the position of the American Orthodox Jewish community on a broad range of legal issues, including by holding accountable in U.S. courts terrorists and their supporters who frequently target AIA's constituents.

The **American Association of Jewish Lawyers and Jurists**, an affiliate of the International Association of Jewish Lawyers and Jurists, represents the human rights interests of the American Jewish community on legal issues implicating the interests of that community pursuant to the mission statement, "Justice, Justice Shall You Pursue" (Deuteronomy 16:20).

The **American Jewish Committee** is the global advocacy organization for the Jewish people. AJC stands up for Israel's right to exist in peace and security; confronts antisemitism, no matter the source; and upholds the democratic values that unite Jewish communities and their allies.

The **Anti-Defamation League** is an anti-hate organization at the forefront of analyzing and reporting on the actions of domestic and international extremist and terrorist groups that threaten the security of Americans and others throughout the world.

Christians United for Israel is the largest pro-Israel organization in the United States. With over ten million members, CUFI is the foremost Christian organization educating and empowering millions of Americans to speak and act with one voice in defense of Israel and the Jewish people. CUFI's diversity across political, ethnic, generational, and denominational lines maximizes its impact in communities, in the media, on campus, and in our Nation's capital. CUFI is committed to confronting indifference and combating antisemitism in all its forms wherever it may be found.

The **Coalition for Jewish Values** is the largest Rabbinic public policy organization in America, representing over 2,500 traditional Orthodox rabbis. CJV promotes religious liberty, human rights, and classical Jewish ideas in public policy, and does so through education, mobilization, and advocacy, including by filing *amicus curiae* briefs in defense of equality and freedom for religious institutions and individuals. Notable cases in which CJV has filed *amicus curiae* briefs include *Fulton v. City of Philadelphia*, 141 S. Ct. 1868 (2021); *Groff v. DeJoy*, 143 S. Ct. 2279 (2023); and *Yeshiva University v. YU Pride Alliance*, No. 22A184 (U.S. Sept. 9, 2022).

The **Endowment for Middle East Truth**, founded in 2005, is a Washington, D.C.-based think tank and policy center that prides itself on challenging the falsehoods and misrepresentations that abound in U.S. Middle East policy. EMET educates policymakers by providing pertinent information to representatives to make informed

decisions that will improve both American and Israeli security.

The **International Legal Forum** is an independent, Israel-based NGO and international coalition of lawyers, combating antisemitism and terror in the legal arena.

The **Louis D. Brandeis Center for Human Rights Under Law** is an independent, non-partisan institution for public interest advocacy, research, and education. The Center’s mission is to advance the civil and human rights of the Jewish people and promote justice for all.

The **National Jewish Advocacy Center, Inc.** is a nonprofit organization committed to advocating for the Jewish nation and the Jewish State as prisms through which people from all walks of life can learn about the dignity of difference, the power of coexistence, and the strength that comes from tolerance.

The **One Israel Fund, Ltd.** is the premier U.S. charity fulfilling humanitarian, educational, religious, and civilian security needs of the Israeli and American residents of Judea and Samaria and the Gaza “Envelope”—areas that are the most frequent targets of terror attacks.

The **Orthodox Jewish Chamber of Commerce** is a global umbrella of businesses of all sizes, along with leading professionals, elected officials, and communal activists. The Chamber empowers its members and the broader community to network with each other and harness this invaluable network to

stimulate economic opportunity and positively affect the public policy of governments around the world.

The **Rieders Foundation**, established more than thirty years ago as a non-profit organization, is dedicated to enhancing Jewish culture and the civil rights of the Jewish people. The Rieders Foundation combats all forms of anti-Jewish discrimination through litigation, including when the discrimination is expressed as anti-Israelism.

The **StandWithUs Saidoff Legal Department** is the legal division of StandWithUs, an international non-partisan education organization that supports Israel and fights antisemitism through providing individuals with the tools necessary to teach, identify, define, expose, and act against anti-Jewish and anti-Zionist bigotry in its many forms.

StopAntisemitism is a grassroots watchdog organization dedicated to exposing and holding accountable individuals and groups that promote antisemitism. Founded in 2018 in response to rising antisemitic violence and sentiment in the United States, it uses social media, mailers, and its website to reach millions. By publicly identifying antisemites, StopAntisemitism ensures real-world consequences such as arrests, job losses, and school expulsions, creating a deterrent against Jew-hatred.

The **Union of Orthodox Jewish Congregations of America** is the nation's largest Orthodox Jewish synagogue organization. Through its Advocacy Center, the OU has participated in many cases nationwide that implicate important matters of concern to the Orthodox Jewish community, including

ensuring that terrorists cannot exploit U.S. laws to avoid punishment.

The **Zionist Organization of America** is the oldest pro-Israel organization in the United States whose leaders have included U.S. Supreme Court Justice Louis Brandeis. ZOA remains on the front lines of Jewish activism, defending Israel and the Jewish people, seeking justice for American victims of international terrorism, and fighting antisemitism in all its forms.