

**Memorandum of Law in Support of Plaintiff's Motion to Strike Defendants' Exhibits Q through Z for Failure to Authenticate and to Strike the Reply Memorandum's References to those Exhibits.**

The defendants' Reply Memorandum submits documentary evidence in support of their motion to dismiss. A motion to dismiss is not the place for presenting evidence, Hickman v. Taylor, 329 U.S. 495, 500-01, 91 L.Ed. 451, 67 S.Ct. 385 (1947). If the Court, however, decides to allow the defendants to turn a motion for dismissal into a litigation of personal destruction targeting the plaintiff, then the defendants should be required to show that their evidence is genuine by authenticating it.

When documentary evidence is submitted in support of a motion, it must be authenticated by an affidavit or affidavit substitute of an individual having first hand knowledge of the document. 1 Matthew Bender Federal Litigation Guide: New York and Connecticut § 9.75, (2004). The document should be attached to the affidavit or affidavit substitute. Id. The defendants failed to provide any authenticating affidavits or substitutes to the documents in their Exhibits Q through Z.

In addition, Exhibit Z purports to contain translations of foreign public documents, but, except for a handwritten document in Russian that may or may not be a public document, there are no other Russian language public documents included in that exhibit from which the English translations could have been made. All very convenient, since the inclusion of copies of foreign public documents require an attestation by the person authorized to make attestations for those documents and a final certification as to the genuineness of the signature and position of the attester. Fed. R. Civ. P. 44(a)(2). The reason for these requirements are to make sure the documents are what they purport

to be, but the defendants blithely ignore the Rules and include only alleged translations but not copies of the original Russian documents, if there are any. Further, there is no translator's signed and notarized affidavit as to his qualifications for making such translations and the necessary apostile so that it can be used in an American court in accordance with the Hague Convention. T.I.A.S. 10072; 33 U.S. Treaty Series (UST) 883; 527 U.N. Treaty Series (UNTS) 189: Martindale-Hubble International Law Digest or <http://www.state.gov/m/a/auth/c1267.htm>. So what good are these documents, except to further the defendants' efforts to bias the Court against the plaintiff.

Furthermore, Exhibits Q and U also contain purported translations of apparently non-public documents without any notarized affidavits or apostiles.

The plaintiff requests the defendants Exhibits Q through Z be stricken from their Reply Memorandum along with all references to those Exhibits.

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By: \_\_\_\_\_  
Roy Den Hollander  
Attorney and Pro Se Plaintiff  
545 East 14 Street  
New York, NY 10009  
(212) 995 5201