

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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|--------------------------------------|---|--------------------|
| DAVID SCHERMERHORN, <i>et al.</i> , |) | |
| |) | |
| Plaintiffs-Appellants, |) | |
| v. |) | Docket No. 17-7023 |
| |) | |
| THE STATE OF ISRAEL, <i>et al.</i> , |) | |
| |) | |
| Defendants-Appellees. |) | |

STATEMENT OF ISSUES TO BE RAISED ON APPEAL

Pursuant to this Court’s Order of February 22, 2017 (Document No. 1662422), and Federal Rule of Appellate Procedure 30, Plaintiffs-Appellants David Schermerhorn, *et al.*, respectfully inform the Court of their intention to raise the following issues on appeal:

1. Whether granting Defendants’ motion to dismiss was consistent with this Circuit’s precedents given that the claims of the complaint were demonstrably “non-frivolous,” in which case the court below was not justified in holding Plaintiffs to a higher standard of proof at the jurisdictional stage?

2. Whether the “non-commercial tort exception” in the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605(a)(5), permits civil actions against a foreign sovereign and its agencies and

instrumentalities alleging tortious injuries suffered on board a United States-flagged vessel traveling on the high seas?

3. Whether the “terrorism exception” in the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605A, permits personal injury actions against a foreign sovereign and its agencies and instrumentalities irrespective of whether that state has been designated by the Executive branch as a “state sponsor of terrorism” within 50 U.S.C. App. § 4605(j), 22 U.S.C. § 2371, or 22 U.S.C. § 2780(d)?

Respectfully submitted,

/s/ *Steven M. Schneebaum*

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Dated: March 2, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March, 2017, I filed the foregoing Statement of Issues to be Raised on Appeal with the Court through its ECF system, thereby effecting service on counsel of record for Appellees:

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