No. 26-14146
CAIR-Foundation, Inc., et al. v. DeSantis, et al.
United States Court of Appeals for the Eleventh Circuit

APPENDIX
TABLE OF CONTENTS

Exhibit A: U.S. District Court for the Northern District of Florida, District Court Order Denying Plaintiffs' Emergency Motion for a Preliminary Injunction (Nov. 4, 2026),
ECF No. 65 .....App.1

Exhibit B: U.S. District Court for the Northern District of Florida, District Court Order Denying Plaintiffs' Emergency Motion for an Injunction Pending Appeal (Nov. 10, 2026),
ECF No. 74 .....App.38

Exhibit C: Declaration of Edward Mitchell on Behalf of Plaintiff CAIR-Foundation, Inc. (Oct. 2, 2026),
ECF No. 6-1 .....App.40

Exhibit D: Declaration of Wilfredo Ruiz on Behalf of Plaintiff CAIR Florida, Inc. (Oct. 2, 2026),
ECF No. 6-2 .....App.66

Exhibit E: Declaration of Maryam Hasan, Volunteer for Plaintiff CAIR-Foundation, Inc. (Oct. 2, 2026),
ECF No. 6-3 .....App.93

Exhibit F: Declaration of Nicholas Warren Concerning Sept. 29, 2026, Florida Cabinet Meeting (Oct. 2, 2026),
ECF No. 6-4 .....App.96

Exhibit G: Declaration of Celin Carlo-Gonzalez, Counsel of Record for Plaintiffs, Attorney at ACLU Foundation (Oct. 2, 2026),
ECF No. 6-5 .....App.100

Exhibits A-C and F attached to the Declaration of Celin Carlo-Gonzalez have been omitted for space.

Exhibit G-1: Notice of Intent of Designating Council on American Islamic Relations (CAIR), Including CAIR Florida, as a Florida Domestic Terrorist Organization (received Sept. 18, 2026),
ECF No. 6-5 (Carlo-Gonzalez Decl., Ex. D) App.103

Exhibit G-2: Plaintiffs' Objection to Designation of CAIR and CAIR Florida as "Domestic Terrorist Organizations" (Sept. 25, 2026),
ECF No. 6-5 (Carlo-Gonzalez Decl., Ex. E) App.112

Exhibits 1-3 to Plaintiffs' Objection to the Notice of Intent consisting of filings in CAIR-Foundation, Inc. v. DeSantis*, No. 4:26-cv-315 (N.D. Fla.) have been omitted for space.*

Exhibit G-2-1: Plaintiffs' Expert Report of Jason Blazakis, prepared for *CAIR Foundation, Inc. v. DeSantis*, No. 4:25-cv-516-MW-MJF (N.D. Fla. May 29, 2026),
ECF No. 6-5 (Carlo-Gonzalez Decl., Ex. E-4) App.120

Exhibit G-2-2: Plaintiffs' Expert Rebuttal Report of Jason Blazakis, prepared for *CAIR Foundation, Inc. v. DeSantis*, No. 4:25-cv-516-MW-MJF (N.D. Fla. June 26, 2026),
ECF No. 6-5 (Carlo-Gonzalez Decl., Ex. E-5) App.169

Exhibit H: Supplemental Declaration of Edward Mitchell on Behalf of Plaintiff CAIR-Foundation, Inc. (Oct. 16, 2026),
ECF No. 60-1 .....App.185

Exhibit I: Supplemental Declaration of Wilfredo Ruiz on Behalf of Plaintiff CAIR Florida, Inc. (Oct. 16, 2026),
ECF No. 60-2 .....App.188

Exhibit J: Declaration of Charles Hogle, Counsel of Record for Plaintiffs, Attorney at ACLU Foundation (Oct. 16, 2026),
ECF No. 60-3 .....App.192

Exhibit J-1: Letter from John Kerry, U.S. Secretary of State, to Nihad Awad, Executive Director, CAIR, dated May 5, 2015, as Exhibit A to Declaration of Charles Hogle (Oct. 16, 2026),
ECF No. 60-3 (Hogle Decl., Ex. A) App.194

Exhibit K: Transcript of Hearing on Plaintiffs' Emergency Motion for Injunctive Relief Before the Honorable Allen C. Winsor, Chief United States District Judge (October 28, 2026), ECF No. 64 .....App.197

Exhibit A

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

CAIR-FOUNDATION, INC., and CAIR-FLORIDA, INC.,

Plaintiffs,

v. **Case No. 4:26-cv-521-AW-MAF**

RON DESANTIS, et al.,

Defendants.

_____/

ORDER GRANTING IN PART AND DENYING IN PART MOTION FOR PRELIMINARY INJUNCTION

The Florida Legislature recently enacted a new law that allows state officials to designate certain groups "domestic terrorist organizations" (DTOs). Soon thereafter, Florida's Governor and Cabinet designated Plaintiffs CAIR-Foundation, Inc., and CAIR-Florida, Inc., as DTOs. The designations take effect on November 5, 2026. At that point, Plaintiffs and others supporting them will be subject to criminal and civil penalties for certain activities. In this action, Plaintiffs contend the new law (or parts of it) and the DTO designations violate their First Amendment freedoms and due process protections.

Plaintiffs sued Florida's Governor, Cabinet members, Chief of Domestic Security, and the twenty State Attorneys—all in their official capacities. ECF No. 1. Plaintiffs then filed an emergency motion for a temporary restraining order and a preliminary injunction. ECF No. 6. The previous judge denied the request for a TRO

and set a hearing on the request for preliminary relief. ECF Nos. 28, 46. The case was then reassigned, ECF No. 59, and I held a hearing on October 28, *see* ECF No. 64 (Trans.). Both sides have submitted declarations and other evidence, and all agree no evidentiary hearing is necessary. ECF No. 41 at 2. Having carefully considered the matter, I now grant in part the motion for preliminary injunction.

I.

This is Florida's second effort to designate Plaintiffs as terrorist organizations. Previously, the Governor issued an executive order that designated Plaintiffs as terrorist organizations and prevented them "or 'any person known to have provided material support or resources' to [them] 'from receiving any contract, employment, funds, or other benefit or privilege' from executive or cabinet agencies or from any county or municipality of the state." *CAIR-Foundation, Inc. v. DeSantis* (*CAIR I*), 822 F. Supp. 3d 1263, 1269 (N.D. Fla. 2026). This court preliminarily enjoined enforcement of the executive order, finding it likely violates the First Amendment. *Id.* at 1269, 1273. The Governor appealed, and the appeal remains pending.

After this court's decision, the Florida Legislature enacted HBs 1471 and 1473, which created a DTO designation process.[1] The Florida Department of Law

[1] After the legislation's enactment, the Governor publicly stated his intent to designate Plaintiffs through the new process. *CAIR-Foundation, Inc. v. DeSantis*, No. 4:26-cv-315-MW-MJF, ECF No. 69 at 2 (N.D. Fla. Oct. 1, 2026). Plaintiffs immediately filed suit, but because they were not designated DTOs at the time of

Enforcement later promulgated Emergency Rule 11RER26-8, which implements this legislation.

Pursuant to the legislation and rule, Florida's Chief of Domestic Security issued a written notice of intent to designate Plaintiffs as DTOs. ECF No. 6-1 at 14; ECF No. 6-2 at 14. Plaintiffs received this notice on September 18 and submitted written objections a week later. ECF No. 6-5 at 21-26. On September 29, the Governor and Cabinet held a public meeting, at which they approved the designations. ECF No. 6-4 at 1-3. Plaintiffs' counsel attended the meeting but had no opportunity to speak. *Id.* On October 6, FDLE published the designations in the Florida Administrative Register. ECF No. 55 at 17. Despite a statutory right to appeal the designation to Florida's Second Judicial Circuit Court, Plaintiffs chose not to appeal. *Id.* at 10. Thus, as a matter of state law, the designations are set to become effective on November 5, 2026.

In this case, Plaintiffs challenge what they term the "DTO regime," comprising the emergency rule and Florida Statutes §§ 617.1420, 775.30, 775.33-.34, 823.05, 874.03-.12, and 943.03102, to the extent they concern DTOs. ECF No. 1 ¶ 9 n.1; *see also* ECF No. 6 at 2 n.1. Once the DTO designations take effect, several of those statutes could expose Plaintiffs and others to civil and criminal penalties

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filing, the court dismissed their complaint for lack of standing. *Id.* at 6. As explained below, Plaintiffs now have standing.

and other consequences. ECF No. 1 ¶¶ 48-72. Through their preliminary injunction motion, Plaintiffs seek "the removal, recission, and non-publication of [their] designation[s]." ECF No. 6 at 2, 52. Alternatively, they ask the court to enjoin the Attorney General and State Attorneys from enforcing the laws against them (or third parties) based on the DTO designations. *Id.* at 3.

II.

A preliminary injunction is an extraordinary and drastic remedy, available only when the movant clearly establishes entitlement to it. *ACLU of Fla., Inc. v. Miami-Dade Cnty. Sch. Bd.*, 557 F.3d 1177, 1198 (11th Cir. 2009). Because preliminary injunction motions often turn on undeveloped records, it can be difficult for movants to meet this high standard. *Siegel v. LePore*, 234 F.3d 1163, 1175 (11th Cir. 2000) (en banc). Accordingly, preliminary injunctions are usually the exception, not the rule. *Id*. at 1176.

To obtain a preliminary injunction, Plaintiffs must show (1) they are substantially likely to succeed on the merits; (2) they will suffer irreparable harm without the injunction; (3) the threatened harm to them outweighs whatever damage the injunction may cause Defendants; and (4) the injunction would not be adverse to the public interest. *Jackson v. Jones*, 179 F.4th 846, 855 (11th Cir. 2026). When, as here, Defendants are government officials sued in their official capacities, the last

two factors essentially merge into a single inquiry. *Swain v. Junior*, 958 F.3d 1081, 1091 (11th Cir. 2020).

A movant's failure on any one factor precludes relief. *ACLU of Fla.*, 557 F.3d at 1198. Generally, the most important factor is the likelihood of success. *Baker v. City of Atlanta*, 164 F.4th 850, 864 (11th Cir. 2026). That is where most movants fall short, *ACLU of Fla.*, 557 F.3d at 1198, and it is where Plaintiffs fall short except in limited part, as explained below.

III.

A few preliminary points are in order. First, much of Plaintiffs' case is not at issue at this stage. Plaintiffs allege that state officials sought to punish them for their earlier speech and for their religious views. They have a First Amendment retaliation claim, ECF No. 1 ¶¶ 231-35, but they did not move for preliminary injunctive relief based on that claim, *see* Trans. at 99:23-24; *see also* ECF No. 6 at 2 (noting limited counts on which Plaintiffs seek preliminary injunction). They also have a preemption claim that is not yet at issue. ECF No. 1 ¶¶ 263-70. They elected to seek preliminary injunctive relief based only on their due process, freedom-of-association, prior restraint, and viewpoint and content-based discrimination claims. ECF No. 6 at 2. Thus, even if Plaintiffs are correct that they have been designated DTOs because of Defendants' "animus against Plaintiffs' faith-driven mission and advocacy," *id.* at 8, those allegations are not presently at issue.

Second, Plaintiffs are correct that the overall scheme is novel—and perhaps unprecedented. *See* ECF No. 60 at 7. Historically, it is the federal government that designates terrorist organizations. And historically, designations are of *foreign* organizations. *See, e.g.*, *Holder v. Humanitarian Law Project*, 561 U.S. 1, 8-9 (2010). *But see Al Haramain Islamic Found., Inc. v. Dep't of Treasury*, 686 F.3d 965, 970 (9th Cir. 2012) (terrorist designation of domestic entity). Defendants point to nothing comparable to the regime they defend. Still, the Constitution does not prohibit legislation simply because it is novel. *See Nat'l Rifle Ass'n v. Bondi*, 133 F.4th 1108, 1115 (11th Cir. 2025) (en banc) ("The Constitution does not impose a 'use it or lose it' view of legislative authority." (some internal quotation marks omitted) (quoting *United States v. Rahimi*, 602 U.S. 680, 740 (2024) (Barrett, J., concurring))).

Third, the issue at this stage is not whether Plaintiffs are, in fact, terrorist organizations. The parties present vastly different views on this point. Plaintiffs say "[t]heir shared mission, rooted in faith, is to enhance the public's understanding of Islam, protect civil rights, promote justice, and empower American Muslims." ECF No. 6 at 7. Defendants, on the other hand, say Plaintiffs operate as fronts for Hamas and the Muslim Brotherhood. ECF No. 55 at 9. Again, Plaintiffs claim the State reached the wrong decision on that score—and that it violated their Fourteenth Amendment rights in reaching its decision without providing due process. *See* ECF

No. 60 at 4-5. But Plaintiffs do not assert any standalone constitutional right to a factually correct decision on the question of whether they are terrorist organizations.

Fourth, an entity's designation as a terrorist organization is indeed consequential. Plaintiffs have shown that the designations, upon taking effect, will cause significant disruption, essentially leading to a closure of all their Florida operations. *See* ECF No. 6 at 51. Because one Plaintiff (CAIR Florida, Inc.) operates exclusively in Florida, it says it will shut down entirely. *Id.* At this stage, based on undisputed statements in Plaintiffs' declarations, I accept these representations as true. But while the designations and the state laws that authorize them may have broad implications, the constitutional issues Plaintiffs present are relatively narrow. The claims ask whether Plaintiffs were afforded due process before the State made the designations and whether the designations (and legal consequences flowing from them) violate Plaintiffs' speech or association rights.

Finally, it should go without saying that a court's "role is not to judge the wisdom, fairness, or logic of the law[s]" at issue. *West Virginia v. B.P.J.*, 609 U.S. 958, 990 (2026) (quoting *United States v. Skrmetti*, 605 U.S. 495, 525 (2025)). Instead, the question here is simply whether Plaintiffs have carried their burden as to each of the preliminary injunction factors.

With that out of the way, I will turn to the issue of whether Plaintiffs have met their burden on those factors, and I will start with the likelihood of success on the merits.

IV.

Standing

Plaintiffs cannot succeed on the merits without showing standing, "an essential and unchanging part of the case-or-controversy requirement of Article III." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). Though no party questions Plaintiffs' standing, I have an independent obligation to consider the issue and ensure the court has jurisdiction. *See Baker*, 164 F.4th at 861 (explaining that courts "have an independent obligation to ensure that [they] have jurisdiction by determining whether the parties have Article III standing"). At this stage, Plaintiffs "must make a 'clear showing' that [they are] 'likely' to establish each element of standing." *Murthy v. Missouri*, 603 U.S. 43, 58 (2024) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008)). Those elements are injury in fact, causation, and redressability. *First Choice Women's Res. Ctrs., Inc. v. Davenport*, 608 U.S. 174, 183 (2026). Because "standing is not dispensed in gross," Plaintiffs must make this showing "for each claim that they press against each defendant." *Murthy*, 603 U.S. at 61 (internal quotation marks omitted) (quoting *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021)).

Here, Plaintiffs have shown a substantial likelihood that they can establish standing. Regarding injury in fact, Plaintiffs have shown they face a "credible threat" that the DTO regime will be enforced against them. *First Choice*, 608 U.S. at 183 (quoting *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 161 (2014)); *see also Wollschlaeger v. Governor of Fla.*, 848 F.3d 1293, 1305 (11th Cir. 2017) (en banc) (noting that a state's defense of a law in court shows "an intent to enforce" the law (quoting *Harrell v. Fla. Bar*, 608 F.3d 1241, 1257 (11th Cir. 2010))). This imminent injury is traceable to the Attorney General and State Attorneys, who are charged with enforcing the challenged provisions.[2] And an injunction prohibiting such enforcement would redress Plaintiffs' injury. The Governor, Chief of Domestic Security, and Cabinet are also allegedly causing Plaintiffs' injury by maintaining the DTO designations. An injunction requiring those officials to remove or rescind the designations—as Plaintiffs request—would redress that injury because it would preclude actions taken in reliance on the designations.

[2] The Secretary of State, who would be responsible for initiating administrative dissolution under § 617.1420(1)(f), is not a Defendant. Still, as explained above, granting Plaintiffs' request to undo their designations would prevent their dissolution on that basis. Thus, Plaintiffs' failure to sue the Secretary does not create traceability or redressability problems as to § 617.1420. *Cf. Jacobson v. Fla. Sec'y of State*, 974 F.3d 1236, 1256 (11th Cir. 2020) (explaining that "the plaintiff's injury [must] be 'fairly traceable' to the defendant's actions and redressable by relief against *that* defendant" (quoting *Lewis v. Governor of Ala.*, 944 F.3d 1287, 1298, 1301 (11th Cir. 2019) (en banc))).

Facial Challenges

Plaintiffs' briefing left unanswered the critical question of whether they present facial or as-applied challenges. But at the hearing, Plaintiffs explained that they seek preliminary injunctive relief based on both as-applied and facial (or quasi-facial) claims as to each of the counts at issue.[3] Trans. at 5:14-6:15.

I will dispose of the facial claims first. As Defendants point out, bringing a facial challenge "comes at a cost." ECF No. 55 at 31 (quoting *Moody v. NetChoice, LLC*, 603 U.S. 707, 723 (2024)). "Because 'facial challenges threaten to short circuit the democratic process,' they are, by design, 'hard to win.'" *NetChoice v. Att'y Gen., Ga.*, --- F.4th ----, 2026 WL 3079563, at *5 (11th Cir. Oct. 15, 2026) (quoting *Moody*, 603 U.S. at 723).

For their facial due process claims, Plaintiffs must show they are likely to "establish that no set of circumstances exists under which the [DTO regime] would be valid." *Edwards v. Randolph Cnty. Sheriff*, --- F.4th ----, 2026 WL 2905460, at

[3] In a quasi-facial challenge, a plaintiff claims that a law "cannot be constitutionally applied to a defined subset of people the law covers." *United States v. Alsenat*, 174 F.4th 45, 48-49 (11th Cir. 2026) (quoting *McGuire v. Marshall*, 50 F.4th 986, 1003 (11th Cir. 2022)). As the "quasi" label suggests, the plaintiff must "'satisfy [the] standards for a facial challenge to the extent' his claim 'reach[es] beyond [his] particular circumstances.'" *Id.* (second alteration in original) (quoting *Doe v. Reed*, 561 U.S. 186, 194 (2010)). During the hearing, Plaintiffs alternatively identified the relevant subset as "expressive organizations" or "U.S. corporations." Trans. at 5:21, 6:10. These limitations (offered for the first time at the hearing) make no difference here, so for ease of reference I refer to Plaintiffs' quasi-facial and facial claims as "facial."

*9 (11th Cir. Sept. 28, 2026) (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)). Though "the facial-challenge bar is lower" for First Amendment claims, Plaintiffs still must demonstrate a likelihood that "a substantial number of [the DTO regime's] applications are unconstitutional, judged in relation to [the regime's] plainly legitimate sweep." *NetChoice*, 2026 WL 3079563, at *5 (quoting *Moody*, 603 U.S. at 723). To do this, Plaintiffs must address the "full range" of the DTO regime's applications. *Id.* at *8. In other words, they need to give this court "the data—either hard facts or, at the very least, sufficient briefing—necessary to conduct the *Moody*-required comparative analysis." *Id.* at *7; *see also Comput. & Comms. Indus. Ass'n v. Uthmeier*, --- F.4th ----, 2026 WL 3071065, at *17 (11th Cir. Oct. 14, 2026) ("In a facial-challenge posture, we don't think it's the state's obligation to [prove constitutional applications]. Rather, the Supreme Court seems to have put the 'burden' squarely on the plaintiff: As one 'price' of its 'decision to challenge the law[] as a whole,' the challenger must 'carry its burden' of demonstrating that the invalid applications substantially outweigh the valid ones." (second alteration in original) (quoting *Moody*, 603 U.S. at 744)).

Plaintiffs have not met their burden. Their briefing does not grapple with the standards for facial relief (or even mention facial relief). Plaintiffs do not cite *Moody*, much less walk through the two-step process it requires. And they have not even

argued that every application of the regime would violate due process.[4] It follows that Plaintiffs have not shown a likelihood of success on their facial claims. The rest of this order, then, will address only Plaintiffs' as-applied challenges.

As-Applied Due Process Claims

Plaintiffs allege Defendants violated their due process rights by designating them as DTOs. ECF No. 6 at 20. This claim has two distinct aspects. First, Plaintiffs argue that a DTO designation is itself a criminal punishment, meaning they were entitled to the full set of procedures the Constitution guarantees to criminal defendants—a jury, proof beyond a reasonable doubt, and so forth. *Id.* at 25. Second, as a fallback, Plaintiffs contend that the DTO regime—specifically, § 943.03102 and the emergency rule—affords them "inadequate state process." *Id.* at 26 (quoting *Reed v. Goertz*, 598 U.S. 230, 236 (2023)). Neither theory is likely to succeed.

Criminal Punishment Theory

Categorizing a proceeding as either civil or criminal "is first of all a question of statutory construction." *Kansas v. Hendricks*, 521 U.S. 346, 361 (1997) (quoting *Allen v. Illinois*, 478 U.S. 364, 368 (1986)). This involves looking to the statute's text and structure to discern whether the legislature "indicated either expressly or

[4] Arguably, Plaintiffs do make that contention as to their theory that a DTO designation constitutes criminal punishment. *See* ECF No. 6 at 25-26. But it is not clear that they do. Regardless, as discussed below, they have not shown they are likely to succeed on that theory.

impliedly a preference for one label or the other." *Smith v. Doe*, 538 U.S. 84, 92-93 (2003) (quoting *Hudson v. United States*, 522 U.S. 93, 99 (1997)). Courts also consult the factors outlined in *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168-69 (1963). But only "the clearest proof" that the statute is criminally punitive will override the legislature's choice of a civil label. *Hendricks*, 521 U.S. at 361 (quoting *United States v. Ward*, 448 U.S. 242, 248-49 (1980)).

Here, Plaintiffs have not shown a likelihood that designation as a DTO constitutes criminal punishment. Instead, several features of § 943.03102, the designation process statute, suggest it is civil. For one, it expressly links designation to the "nonpunitive purpose of public safety." *Smith*, 538 U.S. at 103 (cleaned up). The statute identifies "the safety of the residents of this state" as the reason for DTO designations. Fla. Stat. § 943.03102(1)(a). Along these lines, the state can designate an organization a DTO only if the organization poses an "*ongoing* threat to the security of this state or the United States." *Id.* § 943.03102(1)(a)1.c. (emphasis added). This focus on protecting the public from future harm indicates that designation "is an incident of the State's power to protect the health and safety of its citizens," rather than an effort to impose criminal punishment. *Smith*, 538 U.S. at 93-94 (quoting *Flemming v. Nestor*, 363 U.S. 603, 616 (1960)).

Conversely, nothing in § 943.03102 relates to retribution for past wrongdoings—one of criminal punishment's traditional aims. *Mendoza-Martinez*,

372 U.S. at 168; *Hendricks*, 521 U.S. at 362. And a DTO designation *itself* does not entail imprisonment or any other "affirmative disability or restraint." *Smith*, 538 U.S. at 100. Undoubtedly, as Plaintiffs emphasize, designation has potential downstream criminal consequences. *See* ECF No. 6 at 22. But a DTO designation is merely a factual predicate for various crimes. *See* ECF No. 55 at 20-21. It is not a criminal conviction on its own.[5] *Id.*

Section 943.03102(5) also requires an administrative agency to adopt implementing regulations, as civil statutes often do. *Smith*, 538 U.S. at 96; *Hudson*, 522 U.S. at 103. Granted, that agency is FDLE, a law enforcement agency. But the agency in *Smith* was charged with enforcing criminal laws as well. 538 U.S. at 96. That made no difference, the Supreme Court reasoned, because the statute "itself d[id] not require the procedures adopted [by the agency] to contain any safeguards associated with the criminal process." *Id.* The same is true here.

Plaintiffs' remaining points are unavailing.[6] Plaintiffs underscore § 943.03102's placement in Title XLVII, titled "Criminal Procedure and

[5] Plaintiffs contend their DTO designations automatically make them "criminal gangs" under § 874.03(1). *See* ECF No. 6 at 21-22. Defendants disagree. ECF No. 55 at 26-27. As explained below, Defendants offer the better interpretation of the statute, which further undermines Plaintiffs' criminal punishment claim.

[6] In their reply, Plaintiffs make an isolated remark about designation requiring a finding of scienter. *See* ECF No. 60 at 10 (citing Fla. Stat. § 775.30(1)(a)(2)); *see also Hendricks*, 521 U.S. at 362 ("The existence of a scienter requirement is

Corrections." *See* ECF No. 6 at 22. A statute's "location," however, cannot alone "transform a civil remedy into a criminal one." *Smith*, 538 U.S. at 94. Plaintiffs also note that their designations depend on findings that they are engaging in criminal conduct. *See* ECF No. 6 at 21. But the mere fact that a DTO designation is "tied to criminal activity" does not make it a criminal punishment, *Hendricks*, 521 U.S. at 362 (quoting *United States v. Ursery*, 518 U.S. 267, 292 (1996)). Civil proceedings often turn on findings of criminal conduct. As just one example, if a lawyer faces administrative proceedings (and potential disbarment) based on allegations of criminal conduct, those proceedings do not become criminal in nature simply because the administrative body may find the lawyer committed crimes. *Cf. Hudson*, 522 U.S. at 105 (holding that occupational debarment was a civil remedy even though the conduct for which that sanction was imposed may have been criminal). And this is true even though the civil consequence (disbarment) could lead to criminal prosecution (practicing without a license). *See, e.g.*, Fla. Stat. § 454.23 (criminalizing unauthorized practice of law in Florida).

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customarily an important element in distinguishing criminal from civil statutes." (citing *Mendoza-Martinez*, 372 U.S. at 168)). Similarly, they assert without more that the punishment the DTO regime "metes out is plainly 'excessive.'" ECF No. 60 at 11 (quoting *Mendoza-Martinez*, 372 U.S. at 169). Plaintiffs do not develop these arguments further. At any rate, I find them unpersuasive in light of the statute's other features, as discussed above.

Given all this, it should be no surprise that terrorist designations have not historically been regarded as punishment. *See Mendoza-Martinez*, 372 U.S. at 168 (explaining that historic regard as a punishment is a factor). And Plaintiffs point to no case in which a court has held that any designating statute—or anything remotely like the laws at issue—constituted criminal punishment. *See* ECF No. 55 at 22. In short, Plaintiffs have not carried their burden on their criminal punishment theory.

Inadequate State Process Theory

Plaintiffs next argue that even if their DTO designations are not criminal punishments, they were entitled to more process than the state law provides. They say they had a right to a trial-type proceeding before their designations were approved. ECF No. 6 at 26, 35. And they further contend that the post-designation appeal is inadequate. *Id.* at 33-35.

"A procedural due process claim consists of two elements: (i) deprivation by state action of a protected interest in life, liberty, or property, and (ii) inadequate state process." *Reed*, 598 U.S. at 236 (citing *Zinermon v. Burch*, 494 U.S. 113, 125 (1990)). Defendants do not question whether the designations deprive Plaintiffs of a protected interest. Instead, they argue Plaintiffs have not met their burden as to the second element.

Due process requires both notice and an opportunity to respond. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 546 (1985). The nature and timing of

necessary procedures varies depending on the situation. *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976) ("[D]ue process is flexible and calls for such procedural protections as the particular situation demands." (alteration in original) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972))). To determine what process is required, courts generally weigh three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

Other courts have applied the *Mathews* factors in determining the process necessary before designating foreign terrorist organizations under analogous federal law. *See, e.g.*, *Nat'l Council of Resistance of Iran v. Dep't of State* (*NCRI*), 251 F.3d 192, 206-09 (D.C. Cir. 2001); *Al Haramain Islamic Found.*, 686 F.3d at 979-90. In *NCRI*, the D.C. Circuit identified the following procedures as sufficient: First, the government had to notify the organizations that their designations were impending and include the unclassified information on which the government relied. 251 F.3d at 208-09. Second, the government had to give those organizations an opportunity

to respond in writing to rebut their proposed designations. *Id.* at 209. A full-blown judicial trial was unnecessary. *Id.*[7]

Plaintiffs resist the comparison to *NCRI* (and similar cases) because *NCRI* involved foreign organizations rather than domestic ones like them. ECF No. 60 at 12-13. But they do not explain why that distinction matters here. As Defendants observe, the court in *NCRI* held as a threshold matter that the foreign organizations were entitled to full due process protections because they had "entered the territory of the United States and established substantial connections with this country." ECF No. 55 at 18 (quoting *NCRI*, 251 F.3d at 203); *see also Al Haramain Islamic Found.*, 686 F.3d at 984-86 (applying *Mathews* factors as to designated domestic entity without requiring the process Plaintiffs demand here).

Plaintiffs also seem to suggest that the interests in *NCRI* were insignificant. ECF No. 60 at 12 ("In *NCRI*, the court determined what process the Constitution required before the federal government deprived a foreign organization of a 'small bank account' by designating it as an FTO." (quoting *NCRI*, 251 F.3d at 201)). But

[7] Plaintiffs rely on *Jenkins v. McKeithen*, 395 U.S. 411 (1969). *See* ECF No. 6 at 32-33; ECF No. 60 at 13. But in doing so, they merely reassert their criminal-punishment argument. *Jenkins* involved a state commission that allegedly "exercise[d] a function very much akin to making an official adjudication of criminal culpability." 395 U.S. at 427 (plurality opinion); *see also id.* at 432 (Black, J., concurring in the judgment) (describing the state law at issue as "nothing more nor less than a scheme for a nonjudicial tribunal to charge, try, convict, and punish people"). As already explained, a DTO designation is not a criminal adjudication.

more than a "small bank account" was at issue. The court found that "[t]he consequences of [the] designation [were] dire." *NCRI*, 251 F.3d at 196. A designation meant "any funds which the organization ha[d] on deposit with any financial institution in the United States" would be blocked. *Id.* (citing 18 U.S.C. § 2339B(a)(2)). After designation, "[r]epresentatives and certain members of the organization [we]re barred from entry into the United States." *Id.* (citing 8 U.S.C. § 1182(a)(3)(B)(i)(IV & V)). And, "[p]erhaps most importantly, all persons within or subject to jurisdiction of the United States [we]re forbidden from 'knowingly providing material support or resources' to the organization." *Id.* (quoting 18 U.S.C. § 2339B(a)(1)). Here, too, the consequences of designation are substantial. But as in *NCRI* and *Al Haramain Islamic Foundation*, that fact alone does not require the process Plaintiffs demand.

After considering the *Mathews* factors, and consistent with the analysis in *NCRI*, I conclude the process available here is sufficient. Plaintiffs had notice. Florida's Chief of Domestic Security sent them a notice of intent to designate them as DTOs. ECF No. 6-1 at 14; ECF No. 6-2 at 14. That notice described the evidence on which the proposed designations were based. ECF No. 55-2 at 5-11. Plaintiffs then had an opportunity to submit written objections, which they did. ECF No. 6-5 at 21-26. After their DTO designations were approved and published in the Florida Administrative Register, they had thirty days to appeal the designations to state

court. Fla. Stat. § 943.03102(2)(f). During that thirty-day period, the designations would not be effective. Fla. Admin. Code R. 11RER26-8(3).

The availability of the state-court appeal—with a corresponding thirty-day grace period—is a critical factor in the analysis. On appeal, the state court would have been able to "determine whether procedural due process [wa]s accorded, whether the essential requirements of the law [were] observed, and whether the administrative findings and judgment are supported by competent substantial evidence." *City of Deerfield Beach v. Vaillant*, 419 So. 2d 624, 626 (Fla. 1982). Only after this thirty-day appeal window expired would the designations take effect.

Plaintiffs complain that much is unknown about how the appeal would work. And it is true that the statute offers little in terms of details. *See* Fla. Stat. § 943.03102(2)(f) ("Within 30 days after publication of a notice of the designation in the Florida Administrative Register, the organization designated as a domestic terrorist organization . . . , or any member of such organization, may challenge such designation in the circuit court of the Second Judicial Circuit in and for Leon County. The court may not compel the public disclosure of any document that is confidential or exempt under state law or that is confidential, restricted, or otherwise protected from public disclosure according to federal law."). But Plaintiffs have the burden here, and they cannot show the process is inadequate by speculating about what might have fallen short in a state-court appeal they chose not to pursue. Plaintiffs

correctly note they need not exhaust state remedies to pursue a § 1983 action. ECF No. 60 at 12 (citing *First Choice Women's Res. Ctrs., Inc. v. Davenport*, 608 U.S. 174, 196 (2026)). Still, they do have to show that the state process was inadequate. *See Reed*, 598 U.S. at 236; *Cotton v. Jackson*, 216 F.3d 1328, 1331 (11th Cir. 2000).

Plaintiffs also note there is no statutory guarantee of any state-court decision before the thirty days expire. ECF No. 6 at 7. But there is no reason to think that the state judge handling the appeal would not endeavor—as this court has—to move quickly in light of the designations' impending effectiveness. Florida's state courts routinely address time-sensitive matters expeditiously, even without statutory commands that they do so. And Florida law—like federal law—allows for preliminary injunctive relief. *See Fla. Dep't of Health v. Florigrown, LLC*, 317 So. 3d 1101, 1110 (Fla. 2021) (outlining four analogous elements of a temporary injunction).

Because they have not shown that review would *not* be complete within the thirty days, Plaintiffs also have not shown that the available judicial review is a post-deprivation review. Either way, Plaintiffs had an opportunity to be heard (through their written objections) before any deprivation. And either way, they had an opportunity for judicial review.

The bottom line is that Plaintiffs have not shown they are likely to succeed on their due process claim.

As-Applied First Amendment Claims

Freedom of Association

Plaintiffs contend that their "designations will bring their protected activity and associations in Florida to a halt." ECF No. 6 at 37. As a practical matter, that may be so. (As noted above, I accept that CAIR Florida, Inc., will cease all operations.) But the parties debate the extent to which the DTO designations would criminalize their actions—or the conduct of those interacting with them. They agree that under § 775.33(3), "[a] person who knowingly provides material support or resources to a designated . . . domestic terrorist organization" commits a first-degree felony. *See also* Fla. Stat. § 775.33(1)(d) ("'Material support or resources' means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, or transportation. The term does not include medicine or religious materials.").

However, Plaintiffs take the position that there is additional criminal liability if they "'initiate[], organize[], plan[], finance[], direct[], manage[], or supervise[]' any 'activity'—including protected associational activity—'committed with the intent to benefit, promote, or further the interests of' Plaintiffs." ECF No. 6 at 37

(alterations in original) (quoting Fla. Stat. §§ 874.10, 874.03(4)(a)). Plaintiffs advance this argument based on their conclusion that Florida law automatically makes every DTO a "criminal gang." Florida law does impose criminal liability on those who promote the interests of any "criminal gang." *See* Fla. Stat. § 874.04. "Criminal gang" is defined as follows:

> a formal or informal ongoing organization, association, or group that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols, including, but not limited to, terrorist organizations, transnational crime organizations, and hate groups.

Fla. Stat. § 874.03(1).

Both sides insist the definition is clear. Plaintiffs say it means every DTO is, *per se*, a "criminal gang." *See* ECF No. 6 at 23. Defendants say it means a DTO *could be* a criminal gang, but only if it has "as one of its primary activities the commission of criminal or delinquent acts" and meets the other included criteria. ECF No. 55 at 27 (emphasis omitted) (quoting Fla. Stat. § 874.03(1)). Defendants also say that in any prosecution for assisting a "criminal gang," the State would have to prove the entity qualified as a "criminal gang"—not merely that it had been designated a DTO. *Id.*

The statutory definition is far from clear. But in terms of statutory interpretation, Defendants have the better argument. The definition is limited to groups or organizations that have "as one of [their] primary activities the

commission of criminal or delinquent acts" and that comprise "three or more persons." Fla. Stat. § 874.03(1). A terrorist organization, like a hate group, can be one of those organizations. In other words, a terrorist organization "that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons" is a criminal gang. *Id.* Plaintiffs' interpretation would make every terrorist organization a group "that consists of three or more persons," but that is inconsistent with the statutory definition of "terrorist organization," which includes no such requirement. Fla. Stat. § 874.03(8)(a). Moreover, Plaintiffs' interpretation would make every "hate group" a criminal gang (also with three or more members and a primary purpose of committing criminal acts) even though "hate group" is defined much more broadly—without any regard to criminal purpose. Fla. Stat. § 874.03(7). It would be odd for the Legislature to label as a "hate group" an organization with no criminal purpose but then enact a separate statute making every hate group an organization with a primary purpose of committing criminal acts.

To be sure, the Legislature could have avoided this debate by rearranging the statute's clauses:

> "Criminal gang" means a formal or informal ongoing organization, association, or group, including, but not limited to, terrorist organizations, transnational crime organizations, and hate groups, that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols,

~~including, but not limited to, terrorist organizations, transnational crime organizations, and hate groups~~.

But its choice to employ the less clear phrasing does not support Plaintiffs' interpretation.

It is also noteworthy that all twenty State Attorneys—those who would prosecute under the criminal-gang statute—maintain through counsel that Plaintiffs' interpretation is incorrect. ECF No. 55 at 27. That does not necessarily preclude courts from reaching a contrary interpretation. *Cf. Wollschlaeger*, 848 F.3d at 1305-06 (rejecting state officials' interpretation of state statute). But it is not irrelevant. At any rate, I conclude that, as a matter of Florida law, a DTO designation does not automatically make the designated entity a "criminal gang."[8]

As for § 775.33(3), its prohibition against "knowingly provid[ing] material support or resources to a designated . . . domestic terrorist organization" does not infringe on Plaintiffs' associational rights. The prohibition targets material support of DTOs—not their associations. *See People's Mojahedin Org. of Iran v. Dep't of State*, 327 F.3d 1238, 1244 (D.C. Cir. 2003) ("Petitioner argues that by forbidding all persons within or subject to the jurisdiction of the United States from 'knowingly provid[ing] material support or resources,' to it as a designated foreign terrorist organization, the statute violates its rights of free speech and association guaranteed

[8] Having said all this, Plaintiffs agreed at the hearing that this "criminal gang" issue does not substantially affect their association claim. *See* Trans. at 31:20-32:6.

by the First Amendment. We disagree." (alteration in original) (citation omitted)); *see also Islamic Am. Relief Agency v. Gonzales*, 477 F.3d 728, 736-37 (D.C. Cir. 2007) ("We hold that OFAC's blocking of [terrorist-related organization's] assets does not implicate [the organization's] First Amendment right of association.").

As Defendants argue, *Arcara v. Cloud Books, Inc*., 478 U.S. 697 (1986), is instructive. ECF No. 55 at 34-42. In that case, the Supreme Court upheld enforcement of a civil statute that authorized the forced closure of a business used for prostitution and lewdness—but also used to sell adult books. *Arcara*, 478 U.S. at 698. The closed business argued "that the effect of the statutory closure remedy impermissibly burden[ed] its First Amendment protected bookselling activities." *Id.* at 705. But that "argument prove[d] too much, since every civil and criminal remedy imposes some conceivable burden on First Amendment protected activities." *Id.* at 705-06. Indeed, "[o]ne liable for a civil damages award has less money to spend on paid political announcements or to contribute to political causes," and "a thief who is sent to prison might complain that his First Amendment right to speak in public places has been infringed because of the confinement." *Id.* at 706. The same principle applies here.

Therefore, Plaintiffs have not shown a likelihood that they will succeed on their freedom-of-association claim.[9]

Prior Restraint

Plaintiffs next argue that a DTO designation "functions as a prior restraint because it allows Florida's executive branch to suppress disfavored speech and association before they take place." ECF No. 6 at 41. "The term prior restraint is used 'to describe administrative and judicial orders *forbidding* certain communications when issued in advance of the time that such communications are to occur.'" *Alexander v. United States*, 509 U.S. 544, 550 (1993) (quoting Melville B. Nimmer, *Nimmer on Freedom of Speech* § 4.03, p. 4-14 (1984)). Here, a DTO designation does not explicitly forbid any communications. It does not say what a DTO can or cannot say. Plaintiffs' real argument is that the designation will effectively shut them down, meaning they will no longer be able to speak about

[9] One note: There is some overlap between Plaintiffs' association claim and their content-based speech regulation claim. As explained below, Plaintiffs have shown a likelihood of success as to the content-based claim to the extent the statute precludes their continued use of legal counsel based on the "expert advice" provision. Fla. Stat. § 775.33(3). Arguably, that same restriction would violate Plaintiffs' association rights by precluding their association with counsel. But Plaintiffs did not focus on legal advice in the section of their motion addressing their association claim. This makes some sense, as the arguments about counsel fit more neatly within Plaintiffs' content-based claim than their broader association claim. For these reasons—and because, as a practical matter, the same limited injunction would issue—I choose at this preliminary stage not to further explore any distinction between these speech and association claims as to the "expert advice" restriction.

anything. But even if true, that does not make the designation itself (or the regime that authorizes the designation) a prior restraint on speech.

In *Alexander*, the Court rejected an argument that a court order that "effectively shut down [Petitioner's] adult entertainment business[] constituted an unconstitutional prior restraint on speech." *Id.* at 549. There, the order at issue was a criminal forfeiture component of a punishment for a RICO violation. *Id.* Accordingly, its purpose was not to restrict or limit speech. Even if the forfeiture operated to "effectively shut down" the enterprise—as Plaintiffs argue the designation would do here—it was not considered a prior restraint. *Id.* at 549-50 (noting that treating the forfeiture order as an injunction against future speech would "stretch[] the term 'prior restraint' well beyond the limits established by [the Court's] cases"); *see also Arcara*, 478 U.S. at 705 n.2 (concluding there was no prior restraint because "the closure order sought would not [have] be[en] imposed on the basis of an advance determination that the distribution of particular materials is prohibited—indeed, the imposition of the closure order ha[d] nothing to do with any expressive conduct at all").

Plaintiffs rely primarily on *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963). But that reliance is misplaced because in that case—unlike this one—the restriction was directly on speech. *Bantam Books* involved a commission that pressured distributors not to sell certain books and publications. *Id.* at 60-63.

Through this "informal censorship," the commission "deliberately set about to achieve the suppression of publications deemed 'objectionable.'" *Id.* at 67. Here, by contrast, the DTO designations target Plaintiffs' conduct, not their speech.

For this reason, Plaintiffs' unbridled discretion argument necessarily falls away too. In other words, because the DTO designations are not directed at Plaintiffs' speech, they cannot argue that Defendants exercised too much discretion "over whether to permit or deny [their] expressive activity." *Jarrard v. Sheriff of Polk Cnty.*, 115 F.4th 1306, 1321 (11th Cir. 2024) (quoting *Tracy v. Fla. Atl. Univ. Bd. of Trs.*, 980 F.3d 799, 809 (11th Cir. 2020)).

Accordingly, Plaintiffs are not likely to succeed on their prior restraint claim.

Viewpoint and Content-Based Discrimination

Last, Plaintiffs contend that their designations and the DTO regime "burden [their] speech and [their] right to receive information on the basis of the speech's content and viewpoint." ECF No. 6 at 49. They specifically take issue with two provisions: § 775.33(3) (the material support prohibition) and § 874.10 (one of the criminal gang provisions). *Id.*

A speech regulation is content based if it "applies to particular speech because of the topic discussed or the idea or message expressed." *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). These sorts of laws "trigger 'strict scrutiny,' a demanding standard that requires the government to prove its restriction on speech is 'narrowly

tailored to serve compelling state interests.'" *Chiles v. Salazar*, 607 U.S. 627, 640 (2026) (quoting *Reed*, 576 U.S. at 163). Even more pernicious are laws that discriminate against certain speech based on the speaker's viewpoint. *Id.* at 641 ("When the government seeks not just to restrict speech based on its subject matter, but also seeks to dictate what particular 'opinion or perspective' individuals may express on that subject, 'the violation of the First Amendment is all the more blatant.'" (quoting *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995))). Rarely will either type of restriction be permitted. *Id.* at 640-41.

Plaintiffs' challenge as to § 874.10 fails because, as discussed, their DTO designations do not automatically make them "criminal gangs." That leaves only § 775.33(3). As Defendants note, "material support 'most often does not take the form of speech at all.'" ECF No. 55 at 47 (quoting *Holder*, 561 U.S. at 26). And most of what constitutes "[m]aterial support or resources" under Florida law is not speech:

> "Material support or resources" means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, or transportation. The term does not include medicine or religious materials.

Fla. Stat. § 775.33(1)(d).

But the law expressly covers things that are speech, namely providing "expert advice," which includes legal advice. Plaintiffs argue this provision would preclude them from receiving their own lawyers' services in furtherance of this litigation, ECF No. 6 at 50; ECF No. 60 at 23-24, and Defendants have not shown otherwise.

As the parties note, the emergency rule includes this provision:

> The Department will not consider there to be cause for prosecution for a violation of section 775.33 or Chapter 874, F.S., based solely on the provision of legal counsel or legal support services to the organization for purposes of representing or providing advice in connection with existing or anticipated litigation concerning a designation or defending against a criminal prosecution.

Fla. Admin. Code R. 11RER26-8(5). That does not preclude relief here for several reasons. One, it says what the Department (FDLE) considers to be the case; it does not purport to bind the twenty State Attorneys or the Attorney General. Two, the rule does not cover Plaintiffs' providing support to each other in connection with the litigation[10]—or any other third party or employee who might provide "expert advice" in connection with the litigation. *See* ECF No. 6 at 13 n.4. And three, it purports only to cover limited types of cases—those in connection with litigation "concerning a designation" or related to criminal prosecutions. *See id.* at 13. It would not, for

[10] Section 775.33 criminalizes providing material support to a DTO. It does not seem to criminalize the DTOs' continued actions themselves. But Plaintiffs are separate entities, each with its own designation. And Plaintiffs have shown that they work together, such that either could face prosecution for materially aiding the other.

example, cover the provision of legal services in connection with the pending Eleventh Circuit appeal in *CAIR I*.

Therefore, to the extent § 775.33(3) restricts interactions with counsel or others in support of litigation, it regulates speech based on content and is therefore subject to strict scrutiny. *See Chiles*, 607 U.S. at 642 (explaining that in *Holder*, "the government threatened to prosecute lawyers . . . and others for providing . . . expert advice (such as how to use humanitarian and international law to peacefully resolve disputes) to certain groups" which meant "that application of the law . . . sought to regulate speech on the basis of its content and thus demanded strict-scrutiny review" (cleaned up)).

Strict scrutiny is a difficult standard to satisfy, and Defendants have not done so here. Defendants argue in a footnote that "[t]he designation statute creates a scheme of judicial review and thus cannot plausibly be construed to authorize the prosecution of CAIR employees who participate in judicial review." ECF No. 55 at 47 n.13. But even assuming that this purposivist interpretation is correct, the law still would not authorize employees or outside counsel to assist in this litigation—or any litigation other than the statutory appeal Plaintiffs have not taken.

In arguing that the law can survive strict-scrutiny review, Defendants say "combatting terrorism is a textbook compelling interest." *Id.* at 52 (citing *Holder*, 561 U.S. at 28). Even so, Defendants must show that their restriction—here,

precluding Plaintiffs from using or employing legal counsel for any purpose (save, perhaps, for the statutory appeal Plaintiffs do not pursue)—is the least restrictive means available to advance that interest. *See Williams-Yulee v. Fla. Bar*, 575 U.S. 433, 452 (2015). They have not done so. Indeed, their assertion that the law allows Plaintiffs to use legal counsel to preserve their non-designation status through one form of litigation (the statutory appeal) only undermines any suggestion that prohibiting Plaintiffs from using counsel to preserve that status through another form of litigation (this case) is the least restrictive means.

Defendants rely heavily on *Holder*, which upheld a federal material-support statute against a First Amendment challenge. 561 U.S. at 39. But in that case, the Court relied in large part on the federal interest in addressing international terrorism. *Id.* at 34-35. The Court declined to "suggest that Congress could extend the same prohibition on material support . . . to domestic organizations." *Id.* at 39. It also did not hold that the government could preclude the organizations from employing legal counsel to assist them in the litigation.

The bottom line is that the challenged law does, in some respects, restrict speech based on content. It criminalizes any third party's (including counsel's) providing "expert advice"—of any kind—to Plaintiffs. It thus restricts Plaintiffs' First Amendment right to receive such speech. *See Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (noting that the First Amendment protects the right to receive speech just

as it protects the right to make speech). Aside from litigation activity, however, Plaintiffs do not offer specificity as to any other "expert advice" they wish to receive that § 775.33(3) would arguably criminalize. Thus, I agree with Defendants that much of Plaintiffs' argument is hypothetical. ECF No. 55 at 49. There was some discussion at the hearing regarding "training," which also could constitute speech the law would prohibit, but Plaintiffs have not advanced any specific argument regarding training they wish to receive.[11] The relief available is a product of Plaintiffs' litigation choices. *Cf. Holder*, 561 U.S. at 36, 39 (evaluating "the particular speech plaintiffs propose to undertake" and noting that "future applications of the material-support statute to speech or advocacy [may not] survive First Amendment scrutiny").

Still, Plaintiffs have shown it likely they will succeed in proving the "expert advice" restriction as applied to their receipt of legal services violates their First

[11] As noted above, Plaintiffs have not met their burden as to any facial claim. This is because they do not engage in the steps necessary to meet that burden. Had they focused their claim on the "expert advice" provision and attempted to meet the *Moody* requirements, this provision perhaps would have been susceptible to a facial challenge. But Plaintiffs did not do so. *Cf. Comput. & Comms. Indus. Ass'n*, 2026 WL 3071065, at *17 ("As one 'price' of its 'decision to challenge the law[] as a whole,' the challenger must 'carry its burden' of demonstrating that the invalid applications substantially outweigh the valid ones." (alteration in original) (quoting *Moody*, 603 U.S. at 744)).

Amendment rights. As to all other claims, they have not shown a likelihood of success on the merits.

V.

The remaining preliminary injunction factors are relevant only as to an injunction prohibiting enforcement of § 775.33(3) against Plaintiffs or their employees for receiving legal services or a third party providing them. As to this, Plaintiffs have shown they face irreparable harm. Absent an injunction, they would face the termination of legal representation in this case and other actions. (As noted above, Plaintiffs are involved in a pending Eleventh Circuit appeal regarding the court's preliminary injunction as to the executive order.) Moreover, deprivation of First Amendment freedoms for any time constitutes irreparable harm. *Honeyfund.com Inc. v. Governor of Fla.*, 94 F.4th 1272, 1283 (11th Cir. 2024). The remaining factors also favor Plaintiffs. The State has no meaningful interest in denying Plaintiffs legal counsel, and the limited injunction here would not be adverse to the public interest.

CONCLUSION

Plaintiffs' motion for a preliminary injunction (ECF No. 6) is GRANTED in part. The State Attorneys and Attorney General—along with their officers, agents, servants, employees, and attorneys, and any other persons who are in active concert or participation with them—are enjoined from taking any action to enforce Florida

Statutes § 775.33(3) against Plaintiffs, Plaintiffs' employees, or any third party providing legal services to Plaintiffs based on the provision of legal services to Plaintiffs. The motion is otherwise DENIED. This injunction shall take effect immediately upon Plaintiffs' posting a $1,000 bond. Any party may file a motion to increase or decrease the bond based on a showing of good cause.

Within fourteen days, the parties must confer and file a joint report with a proposed litigation plan. To the extent the parties disagree on matters relating to the litigation plan, the report must set out each side's position.

SO ORDERED on November 4, 2026.

s/ *Allen Winsor*
Chief United States District Judge

Exhibit B

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

CAIR-FOUNDATION, INC., and CAIR-FLORIDA, INC.,

Plaintiffs,

v. **Case No. 4:26-cv-521-AW-MAF**

RON DESANTIS, et al.,

Defendants.

_____/

ORDER DENYING MOTION FOR INJUNCTION PENDING APPEAL

Plaintiffs moved for a preliminary injunction, and the court granted the motion in part and denied it in part. ECF No. 65. Plaintiffs appealed and have now filed a motion for an injunction pending appeal. ECF No. 69. This order denies that motion.

Plaintiffs acknowledge the court "is unlikely to grant such relief, given that the four-factor test governing Plaintiffs' entitlement to an injunction pending appeal is essentially the same test that this Court applied in denying [in part] Plaintiffs' motion for a preliminary injunction." *Id.* at 3. And for the reasons explained in the order on the preliminary injunction motion, the court concludes Plaintiffs have not shown a substantial likelihood of success on appeal.

The motion (ECF No. 69) is DENIED.

SO ORDERED on November 10, 2026.

s/ *Allen Winsor*
Chief United States District Judge

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

CAIR-FOUNDATION, INC. and
CAIR FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:26-cv-521-MW-MAF

RON DESANTIS *et al.*,

Defendants.
_____/

DECLARATION OF EDWARD MITCHELL ON BEHALF OF CAIR FOUNDATION, INC.

Pursuant to 28 U.S.C. § 1746, I, Edward Mitchell, declare as follows:

1. I am a resident of Georgia and over the age of eighteen. I have personal knowledge of the facts set forth in this declaration. If called to testify, I could and would testify competently to these facts under oath. I am providing this declaration based on my personal knowledge, my role as the National Deputy Director of CAIR-Foundation, Inc. ("CAIR"), information known to me through CAIR's regular programs, operations, and activities, and my review of CAIR's records maintained in the ordinary course of business.

2. CAIR is the largest Muslim civil rights and advocacy organization in the United States and was established in 2005. Its predecessor organization was

founded in 1994. CAIR's faith-driven mission is to enhance the public's understanding of Islam, protect and vindicate civil rights, promote justice, and empower American Muslims through lawful advocacy and expressive activity protected by the First Amendment. Our vision is to be a leading advocate for justice and mutual understanding.

3. CAIR pursues its mission nationwide, working in coordination with affiliate chapters in multiple states, including CAIR Florida, Inc. ("CAIR-Florida").

4. Since our founding, CAIR has built a reputation for tenacious efforts to combat discrimination against diverse Muslim communities in the United States through legal and public policy advocacy work, interfaith engagement, and client services. CAIR has developed a unique national infrastructure for legal, policy, public education, and civil rights advocacy on behalf of American Muslims.

5. CAIR has never been charged with, let alone convicted of, a crime. Nor has it ever been designated by the federal government under the federal terrorism sanctions regime. Indeed, ISIS, a U.S.-designated Foreign Terrorist Organization, once threatened to assassinate CAIR's leadership because of CAIR's outspoken opposition to violence and terrorism.

6. If CAIR's designation as a "domestic terrorist organization" takes full effect, it will face substantial harm, both in Florida and nationwide. The impact of

such a designation—including on CAIR's reputation, operations, and ability to engage in advocacy—will be significant. We have already experienced harm to our reputation, advocacy work, and business operations as a result of Florida's initial, July 1, announcement of its intent to designate. Once the designation takes full effect, the impact on CAIR will be immediate and severe. Even if later removed, this designation will require substantial time and resources to repair, and some harm could not be fully undone. It would take us years to recover, if at all.

7. But for Florida officials' designation and the severe criminal and civil penalties associated with it for CAIR and for certain key employees and board members located in Florida (as I discuss below), CAIR would continue engaging in advocacy, public education, donor engagement, legal advocacy, civil rights intake, community outreach, and association with CAIR-Florida and Florida residents on matters of public concern, including civil rights, religious freedom, free speech, anti-Muslim discrimination, public policy, and Palestinian human rights.

CAIR's Advocacy

8. CAIR is a nonprofit corporation organized under the laws of the District of Columbia, with headquarters in Washington, D.C. It is tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

9. CAIR and its 16 affiliated state chapters, including CAIR-Florida, work to advance CAIR's mission through advocacy on legal, cultural, social,

policy, and civic issues of public concern to American Muslims. Issues CAIR focuses on include promoting religious tolerance and understanding, cultural education, civil rights, and public policy that protects and enhances the equal treatment of Muslims in the United States.

10. CAIR and CAIR-Florida are active in furthering their mission throughout Florida and together have a footprint in nearly every Judicial Circuit through their advocacy work and/or staff presence, especially in the Second, Fourth, Sixth, Ninth, Eleventh, Thirteenth, Fourteenth, Fifteenth, Seventeenth, and Eighteenth Circuits, and also in the First, Third, Fifth, Seventh, Eighth, Tenth, and Twelfth Circuits.

11. As part of CAIR's public education and advocacy efforts, CAIR employees regularly appear on or are quoted in national and local broadcast, print, and digital media outlets to discuss, debate, inform, and provide commentary on issues of public concern, including civil rights issues. CAIR regularly issues press releases and action alerts on its website, holds press conferences, and posts on social media outlets, such as X, Instagram, Facebook, and YouTube, to communicate with members of the public and government officials. CAIR uses electronic communications to let people know about its presence in the community as a resource for information and legal services. Its employees also frequently

accept speaking engagements to discuss topics related to their work, such as Islamophobia and instances of anti-Muslim discrimination.

12. CAIR's advocacy includes commenting on proposed legislation at the federal and state level and on issues that impact Muslim communities, including matters of United States foreign policy and state government action. For example, in 2025, CAIR publicly opposed Florida House Bill 119, commonly referred to as the "No Shari'a Act," and publicly expressed disagreement with statements made by Governor Ron DeSantis in support of the bill.

13. CAIR educates people on their civil rights through presentations and advocacy materials. For example, CAIR publishes "Know Your Rights" guides and reports on incidents affecting Muslim communities nationwide, such as discrimination in the workplace, in correctional settings, at elementary and secondary schools, as well as colleges and universities. CAIR also creates and disseminates guides for Muslims who are traveling, and for those who are approached by law enforcement.

14. To further its faith-driven mission, CAIR also regularly communicates and meets with local, state, and federal government officials, other organizations, civic groups, religious and interfaith institutions, and members of the public.

15. During Ramadan, CAIR creates specialized programming that includes how to request accommodations at work and at school. CAIR shares this programming with CAIR-Florida.

16. As part of its civic engagement efforts, CAIR promotes voter participation through nonpartisan voter education and registration activities. For example, CAIR routinely participates in and supports National Muslim Voter Registration Day.

17. As part of its advocacy and public education work, CAIR engages with members of the public, the media, government officials, and leaders of other faiths to educate them about Islam and to address false stereotypes, prejudices, tropes and narratives, disinformation, and misinterpretations of Islamic tenets, including with respect to Sharia, which is frequently invoked in political discourse. CAIR has repeatedly explained that Sharia is a moral and spiritual framework that guides American Muslims' ordinary, personal exercise of faith and requires Muslims to comply with the laws of the land in which they reside, including the U.S. Constitution and other federal and state laws. And CAIR has issued public statements and published educational materials explaining that when Muslims pray to God five times a day, donate to charity, fast in Ramadan, or speak up against injustice, among many other practices, they are observing Sharia—just as Jews observe Halakha and Catholics abide by canon law.

18. CAIR frequently engages in advocacy activities in partnership with its affiliated chapters, including CAIR-Florida. Much of CAIR's work in Florida involves collaboration with CAIR-Florida and its affiliates, third-party organizations, and community members in the state.

19. Working in association with other faith-based and civil rights organizations, CAIR strives to build a vibrant constitutional democracy where people of all religious traditions can thrive.

20. CAIR organizes civic engagement activities that encourage participation in the democratic process, both nationwide and in Florida. For example, CAIR hosts Muslim Hill Day in Washington, D.C., which brings Muslims from across the country to meet with members of Congress. In 2026, representatives from CAIR-Florida participated in the event.

21. CAIR advocates for civil rights by providing legal representation and legal advocacy through its Legal Defense Fund. CAIR receives intakes and also represents clients from across the country, including from Florida, in litigation seeking to vindicate those clients' legal and constitutional rights.

22. CAIR's civil rights work includes advocacy and legal support related to Palestinian human rights.

23. For example, CAIR and CAIR-Florida represented and advocated on behalf of Students for Justice in Palestine ("SJP") chapters targeted with

governmental suppression of their exercise of freedom of speech and assembly, based on their speech and association in support of Palestinian human rights. In November 2023, CAIR and CAIR-Florida sued Florida officials, including Governor DeSantis, on behalf of a local SJP chapter at the University of South Florida, challenging a state directive concluding that SJP chapters at Florida public universities must be deactivated. *See Students for Justice in Palestine at the Univ. of So. Fla. v. DeSantis*, No. 1:23-cv-00281 (N.D. Fla. 2023).

24. In early 2025, CAIR and CAIR-Florida successfully advocated for the return of Mohammed Ibrahim—a 16-year-old U.S. citizen and Florida resident who was detained by Israeli authorities beginning in February 2025—including by sending a letter to U.S. Secretary of State Marco Rubio urging him to take urgent action to secure Mohammed's release from Israeli custody through lawful diplomatic channels.

25. In February 2025, CAIR also issued a press release challenging President Donald Trump's assertion that the "U.S. will take over the Gaza Strip" and "own it."

26. In March 2025, CAIR and CAIR-Florida issued public statements condemning actions taken by the Mayor of Miami Beach to close a movie theatre that was screening an Oscar-winning Palestinian documentary.

27. In April 2025, CAIR issued a letter to the U.S. Department of Justice calling on it to prosecute the murder of an American citizen by Israeli settlers.

28. CAIR has consistently condemned U.S. support for the Israeli government's human rights abuses against the Palestinian people as a matter of public policy advocacy. CAIR has also regularly condemned Hamas violence against Israeli civilians, including Hamas's attacks on October 7, 2023.

CAIR's Employees and Board Members

29. CAIR's employees and board members have chosen to work for CAIR and serve on its board, respectively, because they believe in, and wish to contribute to, CAIR's policy, religious, and civil-rights advocacy, including through their provision of specialized skills and speech to the organization. In associating with CAIR and with each other, our employees and board members advance our shared organizational mission.

30. CAIR has two employees and an independent contractor who live in Florida and perform remote work for CAIR on national and interstate matters, including matters related to CAIR's work in Florida. These people are our Chief Operations Officer, our Legal Operations Manager, and our Information Technology Director. Their residence in Florida creates a substantial risk that they will be unable to continue performing their roles if the designation of CAIR becomes effective under Florida law.

31. Two members of CAIR's Board live in Florida, including the Board Chair. Both work remotely from Florida on CAIR matters, including matters relating to CAIR's work in Florida.

32. CAIR has one volunteer who lives in Florida who works as a Strategic Campaign Specialist. She works remotely on CAIR matters, including on matters related to CAIR's work in Florida based on publicly available information, such as researching and investigating events in Florida to assist in preparing CAIR's Hostile Campus Report, which discusses universities' and colleges' treatment of free speech, respect for civil rights, the right to protest, and opposition to Islamophobia in Florida's places of higher education.

Executive Order 25-244

33. On December 8, 2025, Governor DeSantis issued Executive Order 25-244, which unilaterally designated CAIR as a "terrorist organization" and imposed severe punishments on CAIR and on people or entities that obtain benefits or privileges regulated by Florida and provide "material support" to CAIR.

34. On December 15, 2025, CAIR and CAIR-Florida filed a lawsuit challenging Executive Order 25-244 as violating their rights under the First and Fourteenth Amendments of the U.S. Constitution. On March 4, 2026, the district court granted a preliminary injunction enjoining enforcement of the Executive Order.

Florida Officials' Initial Intent to Designate and Its Resulting Harms

35. On July 1, 2026, CAIR learned through a live broadcast held by Governor DeSantis that he had signed HB 1471 into law and the Florida Chief of Domestic Security had sent Governor DeSantis a Notice of Intent to designate CAIR as a "domestic terrorist organization."

36. Because Governor DeSantis said Florida officials would move quickly to ratify the Notice of Intent and because of Florida officials' pattern of targeting CAIR and CAIR-Florida through the Executive Order and public statements, we and our stakeholders in Florida fully expected state officials to use their new designation authorities against CAIR imminently. Governor DeSantis's July 1 announcement caused CAIR to implement immediate measures to protect ourselves and our Florida stakeholders from HB 1471's harsh criminal and civil penalties.

37. Starting on July 1, we implemented payment of a three-month salary advance to our employees who live in, and work remotely from, Florida so that, if the designation became effective, they could stop work. For obvious reasons, we did not want to terminate our Florida-based staff before a designation went into full effect and pending our constitutional challenge; like any nonprofit, we value our staff and these are people who are key to CAIR's operations. But we also did not want to create legal risks for staff once the designation went into effect. And we

did not want to end up in a scenario where staff, who rely on their CAIR salaries for their livelihood, had no financial buffer if the organization were forced to shut down. Due to HB 1471, we felt we had no choice but to pay this three-month advance, which diverted funds from other organizational work. In addition, the planning and compliance measures needed to implement this salary advance diverted staff time and capacity from normal CAIR advocacy and operations.

38. In response to the July 1 designation announcement, we also implemented an emergency technical sprint to configure geo-fencing across the online platforms we use for our community engagement and donor outreach. Our goal was to exclude, to the fullest extent technologically feasible, CAIR's outreach to Florida residents through CAIR feeds that advertise and promote our work (such as through Meta and Google ads), and provide search visibility. In other words, we worked to reduce the likelihood that residents of Florida would engage with promotions of CAIR's advocacy materials and civil rights work in their social media feeds and search results. These operational efforts due to HB 1471 crippled the organization's digital reach in Florida and hurt our ability to acquire new audiences for our mission. As with the other measures we took, this geo-fencing implementation diverted substantial resources and staff time from our normal advocacy and work—all in order to restrict dissemination of CAIR's advocacy to Florida residents.

39. Also on July 1, CAIR paused its donor outreach and support efforts in the state of Florida. This required us to review internal databases to identify and isolate all Florida-based contacts, to the extent it was possible to identify their location, so that they would not receive automated advocacy campaign and other outreach communications. We also implemented a cancellation of active recurring donations from residents in Florida, to the extent it was possible to identify and isolate their location. These massive efforts required a significant diversion of staff time from our advocacy work and mission; it also impaired our ability to reach new donors and audiences in the state of Florida.

40. In the few hours after Governor DeSantis' July 1 announcement, third-party contractors began to sever their ties with us.

41. On July 1, in response to Governor DeSantis's announcement, a Florida-based company that provides CAIR with crucial information-technology network services—including website-hosting, cybersecurity, and technical support—initiated a "compliance review" concerning the risk to the company if it continued to provide services to CAIR. The IT company told a CAIR employee about this matter on July 1—a discussion that diverted time from the employee's other work to advance CAIR's mission and required other employees to divert time to identify other potential IT providers. The IT company terminated its relationship with CAIR a few days later. Finding a new IT provider, not based in Florida, and

transitioning services to the new provider diverted significant staff time from other important CAIR advocacy and operational tasks. The new IT provider was also more expensive, resulting in additional expenditures by CAIR due to HB 1471.

42. As of July 1, CAIR had also accepted a proposal from this same Florida-based company to remake and relaunch one of our key civil rights advocacy tools—Islamophobia.org, a CAIR-owned website that we use and make publicly available to track, monitor and analyze anti-Muslim extremism and hate groups. The website required a complete upgrade because outdated features were severely hampering its functionality. After Governor DeSantis's July 1 announcement, the company declined to move forward with its proposal to remake and relaunch the website. CAIR has been forced to pause our plans to recreate and relaunch the website while searching for a new vendor.

Florida Officials' Ongoing Intent to Designate

43. On September 11, 2026, CAIR learned that Florida officials had issued a new, emergency rule to implement HB 1471.

44. We subsequently received the Florida Chief of Domestic Security's Notice of Intent to Designate CAIR and CAIR-Florida as "domestic terrorist organizations."

45. We and CAIR-Florida submitted written objections to the Notice of Intent on September 25.

46. On September 29, we learned that the Governor and Cabinet had voted to approve our designation.

47. Unless the court intervenes, the designation will become effective on November 5.

The Harms of Designation

48. Florida officials' targeting of CAIR under HB 1471 has already inflicted concrete harm on CAIR. Whether on July 1 or November 5 or at any other time, we do not want to break the law. We understand that continuing any of our operations in Florida after the effective date of the designation could expose our nonprofit, our staff and board, and our community stakeholders to extremely serious penalties.

49. Based on my knowledge of and familiarity with CAIR, its stakeholders, and the broader community it serves, I know that people regarded HB 1471's July 1 effective date with fear because designation of CAIR results in criminal prosecution and civil penalties for virtually anyone in Florida who associates with CAIR. They view the November effective date of designation with the same fear. CAIR is committed to protecting itself and its stakeholders from those risks.

How the Designation is Harming CAIR Even Before the Effective Date

50. Because we do not want to expose CAIR or our stakeholders to harsh penalties under HB 1471, we have had no choice but to wind down our operations in Florida before the effective date of designation. Shutting our operations down responsibly, with care for our employees, board members, volunteers, and community and donor relationships, takes planning and time. Once HB 1471 passed the legislature, we started planning for a wind down of our Florida operations and our planning accelerated in the weeks the initial July 1 date. This allowed us to implement core parts of that plan as soon as Governor DeSantis first announced he had received a Notice of Intent to Designate. It took a tremendous amount of staff time, capacity, and resources to implement the July 1 measures, including geofenced restrictions on advocacy and donor outreach and support in the state of Florida.

51. Being designated as a "domestic terrorist organization" and having that designation published in the Florida Administrative Register and on the Florida Department of Law Enforcement website is inherently stigmatizing; it undermines the trust and credibility that we have built over the lifetime of our existence with donors, community members, volunteers, and supporters. Our trust and credibility goes beyond monetary value and is integral to our ability to carry out our mission.

How the Designation Will Harm CAIR Once It Becomes Effective

Our Ability to Speak to, Advocate for, and Associate with Florida Communities

52. Unless the Court prevents designation from becoming fully effective, CAIR will need to maintain the restrictive geofencing and donor outreach measures it put in place on and after July 1, meaning that existing restrictions on, and suppression of, CAIR's advertising of its civil rights work (e.g. CAIR's Get Out the Vote efforts), as well as donor outreach and support to Florida residents, will continue indefinitely. We have also made our best efforts to identify Florida residents in our government advocacy and community and supporter communication lists: if designation becomes effective, we will need to stop sending press releases about CAIR's civil rights work as well as action alerts (e.g. communications asking people to sign petitions or express support or disagreement to government officials about government policies) to Florida residents.

53. Once its designation is effective, CAIR will be forced to suspend its association with CAIR-Florida, an affiliated chapter, on issues of shared public concern. To further its mission, CAIR speaks to, receives information from, and associates with CAIR-Florida to empower, educate, and defend Florida Muslims. Once CAIR's designation goes into effect, both organizations will face criminal penalties for their speech and association in support of each other's advocacy work.

54. Once the designation is effective, CAIR will not be able to bring CAIR-Florida representatives to its annual Muslim Day Event in Washington, DC.

55. Once effective, designation will also cripple CAIR's ability to discover, engage with, and comment on Florida events relevant to its mission. For example, CAIR will not be able to effectively monitor and report on free speech, respect for civil rights, the right to protest, and opposition to Islamophobia in Florida's places of higher education because our Florida-based employees and volunteers will be unable to work for CAIR and CAIR itself will be prohibited from initiating advocacy activities in Florida in furtherance of its mission and interests. CAIR also will not be able to petition or request information from government officials in Florida, including at correctional or educational facilities.

56. Once the designation is effective, CAIR's ability to provide effective legal representation to its Florida-based clients also will be impaired. CAIR currently represents several Florida residents in litigation outside of Florida. The breadth of Florida's designation regime creates a risk that CAIR or its employees may be subject to prosecution, including those who provide representation to CAIR's Florida-based clients.

Severe Reputational Harm

57. Even if the designation is later removed, repairing the reputational damage it inflicts will require CAIR to invest a tremendous amount of time and

resources. Governor DeSantis's July 1 designation has already strained CAIR's relationships with our donors, partner organizations, community members, volunteers, and supporters, and those harms will only deepen once the designation takes effect. It took decades for CAIR to build these relationships and there is no guarantee that CAIR will ever be able to fully rebuild them or its funding streams.

Our Staff, Board, and Finances

58. Unless the Court prevents designation from becoming fully effective, CAIR will also be forced to take additional steps to suspend its operations in Florida. Preparing for the effectiveness of designation has already forced CAIR to divert its senior staff and its legal, development, and information-technology resources away from ordinary mission-related work and toward the effort required to wind down that work in Florida. Those steps are necessary to protect CAIR and its Florida-based employees, board members, contractors, volunteers, donors, and other community members from harsh penalties due to HB 1471. To allow careful planning and implementation before November 5, we have determined that CAIR will need to initiate these additional steps on October 14.

59. Due to HB 1471's harsh penalties, CAIR will be forced to take protective measures regarding its Florida-based personnel: two employees; an independent contractor who plays a key operational role; two board members; and our volunteer Strategic Campaign Specialist. Once designation is effective, CAIR

will place the two Florida-based employees on administrative leave, suspend the independent contractor and volunteer Strategic Campaign Specialist, and advise its two Florida-based board members to recuse themselves from participation in any CAIR board function or activity. These people are critical to CAIR's work. Loss of the operational or board services each of these individuals provides to CAIR will have a debilitating impact on its ability to carry out our advocacy work.

60. CAIR's Chief Operating Officer ("COO") works remotely from Florida and oversees all of CAIR's operations nationwide. The functions our COO oversees include human resources, staffing, employee benefits, vendor and contract administration, information technology, accounting, fundraising, development, and insurance. As a member of the Compliance and Policy Committee, the COO provides compliance and policy support. In addition, the COO supports CAIR's Board by preparing board materials, coordinating logistics, and helping implement board-approved policies and governance decisions. The COO is critical to CAIR's functions. If we are forced to lose their institutional knowledge of CAIR's operations as well as their performance of their managerial, compliance, and oversight role, CAIR's ability to operate will be significantly impaired.

61. CAIR's Information Technology Director ("IT Director") also works remotely from Florida and oversees not only our technology infrastructure and daily needs, but also has responsibilities similar to a Chief Information Officer. Our

IT Director manages and supervises all of CAIR's information technology systems, which include email; donor management and fundraising platforms; cybersecurity programs and policies; and internet network and infrastructure. Our IT Director is integral to CAIR's operations, and if they are forced to stop working, their loss will significantly impair CAIR's operations nationwide, including our secure communications and donor and fundraising activity.

62. CAIR's Legal Operations Manager is an independent contractor who works remotely from Florida, providing support for legal compliance matters as well as CAIR's nationwide litigation and legal advocacy program. Our Legal Operations Manager is integral to our ability to ensure CAIR's compliance with federal and state laws and manage our legal program. Losing them, even temporarily, will significantly impair CAIR's legal functions.

63. CAIR's two Florida-based board members, including its Board Chair, will recuse themselves from all Board governance and decision-making activity. The Board Chair is responsible for the effective function of CAIR's Board and governance. She also chairs CAIR's Executive Committee, which addresses significant governance, policy, and other organizational matters. Both board members' recusal, and particularly the Board Chair's recusal, will cause CAIR substantial harm and interfere with our ability to operate.

64. CAIR is assessing whether it will need to request that its Florida-based employees and board members be available to provide discrete, extremely limited services that are absolutely essential to ensure CAIR's compliance with state and federal law, such as organizational tax compliance. Regardless of the outcome of that assessment, CAIR will be losing either all or nearly all of the work and services that these Florida-based employees and board members provide to advance CAIR's mission and First Amendment-protected activity.

Loss of Key Service Providers Based in Florida and Impairment of Florida-Based Contracts

65. A fully effective designation will also prevent CAIR and its employees from receiving or using contractual services to be performed in Florida or by Florida-based persons or entities. Designation could also cause CAIR to default on these contracts if CAIR is unable to pay under their terms.

66. For example, once CAIR's designation becomes effective, a Florida-based contractor who performs national development functions will be unable to continue providing services related to donor outreach and management, donor communications, grant-writing coordination, CAIR's mailing lists and internet advertising, and other fundraising operations. If CAIR is forced to lose the essential services of this individual, it would severely impact our donor outreach and fundraising activities, nationwide and in Florida.

67. CAIR has several contracts that involve services to be performed in Florida or by Florida-based entities. These will be impaired once CAIR's designation becomes effective. For example, CAIR has insurance policies and contracts applicable to its Florida-based board members, which, if invoked, would require payments being made in Florida. CAIR also contracts with a Florida-based vendor to provide leadership coaching services. Because of the substantial criminal and civil penalties imposed by HB 1471 on designated organizations and associated third parties, including contractors, it is not clear that the parties to these contracts could fulfill their obligations or that CAIR could pay them for doing so.

Our Ability to Seek Justice in the Courts

68. Once effective, the designation will seriously impede CAIR's ability to defend its rights in court. We understand that, once the designation is effective, it will be a crime for CAIR or anyone else to initiate, organize, plan, finance, direct, manage, or supervise any activities intended to further CAIR's interests in Florida. We also understand that, once the designation is effective, it will be a crime for anyone to provide material support to CAIR in Florida.

69. I understand that under the new emergency rule, if we are challenging a designation or defending ourselves against criminal charges, others can provide us with legal counsel and legal support services without being prosecuted.

70. Even though the emergency rule may protect our lawyers in this lawsuit, it does not protect CAIR, its board, or its staff. So, once the designation is effective, CAIR, its board, and its staff will be at risk of prosecution and severe punishment just for initiating conversations with our attorneys, making litigation decisions, collecting documents, and preparing discovery responses—including in this case.

71. I know CAIR employees located in Florida are concerned that their participation in our lawsuit challenging designation will violate the law. I personally am reluctant to travel to Florida to testify at a hearing because I am concerned my participation could subject me to criminal prosecution.

72. If, somehow, CAIR were able to keep pursuing its advocacy, donor outreach, and other work in Florida after designation goes into effect, I know CAIR employees would nevertheless be concerned about prosecution and would either refuse or be reluctant to contribute to our advocacy and other work in the state.

The Cumulative Effects of Designation

73. If the designation becomes effective, CAIR's institutional voice will be silenced in Florida and its advocacy on legal, policy, cultural, social, and civic issues of public concern will be suppressed in the state. As discussed above, CAIR will be unable to engage in advocacy and speech activities in Florida while the

designation is in effect. It also will be unable to engage in activities to further its mission in Florida, including by working with CAIR-Florida to advocate on behalf of Florida Muslims.

74. If the designation becomes effective, it will profoundly damage CAIR's reputation and relationships with stakeholders in Florida and nationwide, and it might never be able to restore them.

75. In other words, by forcing CAIR to stop any communications and work with our stakeholders in Florida, criminalizing the basic functions and transactions necessary for us to operate in the state, and silencing our ability to speak in the state from our public platforms, an effective designation will prevent us from carrying out our faith-driven mission.

I declare under penalty of perjury that the foregoing is true and correct. This declaration is executed on October 2, 2026.

/s/ Edward Mitchell
Edward Mitchell

Exhibit D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISIONS

CAIR-FOUNDATION, INC. and
CAIR FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:26-cv-521-MW-MAF

RON DESANTIS *et al.*,

Defendants.
_____/

DECLARATION OF WILFREDO RUIZ ON BEHALF OF CAIR FLORIDA, INC.

Pursuant to 28 U.S.C. § 1746, I, Wilfredo Ruiz, declare as follows:

1. I am a resident of Broward County, Florida. I am over the age of eighteen. I have personal knowledge of the facts stated in this declaration. If called to testify, I could and would testify competently to these facts under oath. I am providing this declaration in my capacity as the Communications Director of CAIR Florida, Inc. ("CAIR-Florida"). As Communications Director, I am a senior member of CAIR-Florida's management team and am familiar with CAIR-Florida's programs, operations, and activities.

2. CAIR-Florida was established in 2001 to challenge stereotypes of Islam and Muslims and defend civil rights and liberties in Florida. Our vision is to be a

leading advocate for justice and mutual understanding in our state and to empower Muslim communities, which are a vital part of civil society in Florida. To further our vision, we promote a more just and equitable society for all.

3. Since our founding over two decades ago, CAIR-Florida has built a reputation for tenacious efforts to combat discrimination against Florida's diverse Muslim communities through legal- and public-policy advocacy work, interfaith engagement, and client services. No other organization does the comprehensive, statewide work CAIR-Florida does to engage elected officials and represent the concerns of Florida's Muslim communities.

4. CAIR-Florida has never been charged with, let alone convicted of, a crime. Nor has it ever been designated by the federal government under the federal terrorism sanctions regime. As CAIR-Florida has repeatedly stated, it is not engaged in, and does not support, terrorist activity.

5. If CAIR-Foundation, Inc. ("CAIR") and CAIR-Florida's designation as a "domestic terrorist organization" takes full effect—with all the resulting criminal and civil penalties—we will be unable to operate. The impact on CAIR-Florida and its many stakeholders—board members, employees and staff, volunteers and donors, clients and community members who rely on us—will be devastating. It will take us years to recover, to the extent recovery is possible.

6. If not for the designation and the criminal and civil consequences associated with it, CAIR-Florida would continue engaging in advocacy, public education, donor engagement, legal advocacy, civil rights intake, community outreach, and association with CAIR and Florida residents on matters of public concern, including civil rights, religious freedom, free speech, anti-Muslim discrimination, public policy, and Palestinian human rights.

CAIR-FLORIDA'S ADVOCACY

7. CAIR-Florida is a nonprofit corporation organized under Florida law, with its headquarters in Tampa. It is recognized as tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

8. CAIR-Florida is a chapter of CAIR, which is America's largest Muslim civil rights and advocacy organization. CAIR-Florida shares CAIR's faith-driven mission to enhance the public's understanding of Islam, protect civil rights, promote justice, and empower American Muslims. CAIR-Florida implements its mission through advocacy, which includes legal action in federal courts; education; community organizing; interfaith organizing; public engagement with state officials; and commentary directed at government officials and the public.

9. CAIR and CAIR-Florida further their mission throughout Florida, and together have a footprint in nearly every Judicial Circuit through their advocacy work and/or staff presence, especially in the Second, Fourth, Sixth, Ninth,

Eleventh, Thirteenth, Fourteenth, Fifteenth, Seventeenth, and Eighteenth Circuits, and also in the First, Third, Fifth, Seventh, Eighth, Tenth, and Twelfth Circuits.

10. In many instances, CAIR-Florida works jointly with CAIR, particularly when issues arising in Florida could have a nationwide impact. In other instances, CAIR-Florida may act alone, or on behalf of itself and CAIR.

11. Often in conjunction with CAIR, CAIR-Florida regularly issues press releases and action alerts on its website, holds press conferences, and posts on social media outlets, such as X, Instagram, Facebook, and YouTube, to communicate with members of the public and government officials. Our employees also frequently accept speaking engagements to discuss topics related to their work, such as Islamophobia and instances of anti-Muslim discrimination. CAIR-Florida uses electronic communications to let people know about its presence in the community as a resource for information and legal services.

12. As part of CAIR-Florida's public education and advocacy efforts, our employees appear on, or are quoted in, national and local media outlets to provide commentary on civil rights issues.

13. CAIR-Florida also educates people about their civil rights. For example, we create and disseminate "Know Your Rights" materials related to workplace discrimination, immigrant rights, school bullying, free speech, police interactions, and travel. We visit Florida mosques and other community venues to conduct

"Know Your Rights" presentations, and we visit schools and universities to speak with students about their rights. During Ramadan, we create specialized programming and also rely on materials produced by CAIR to provide Muslims with information about how to request accommodations at work and school. We also make social media videos featuring our staff to remind community members of their rights.

14. CAIR-Florida communicates and advocates with Florida correctional facilities concerning inmate grievance matters and to remind facilities of their duty under federal and state law not to curtail the rights of Muslims in their custody.

15. CAIR-Florida also provides a range of pro bono legal services to Florida residents, including those who have suffered government and workplace discrimination in violation of their civil rights and those navigating the immigration system.

16. Individually and alongside other organizations, CAIR-Florida participates in civic engagement activities that encourage engagement in the democratic process. For example, CAIR hosts an annual Muslim Hill Day in Washington, D.C., and in 2026, representatives from CAIR-Florida traveled to Washington, D.C. to participate in the event. Ordinarily, we lead the Florida delegation to Muslim Day in Washington, D.C., mobilizing our community for the event.

17. CAIR-Florida also hosts its own Muslim Day at the state Capitol in Tallahassee, Florida. The 2026 event included more than 50 participants and addressed issues such as free speech and legislation directly harming Muslim American communities. It culminated in the passage of House Resolution 8001, which celebrated the contributions of Florida's Muslim American community and recognized February 2026 as "Muslim American Heritage Month."

18. Working in association with other faith-based and civil rights organizations, CAIR-Florida strives to build a vibrant constitutional democracy where people of all religious traditions can thrive.

19. As part of its civic engagement efforts, CAIR-Florida promotes voter participation through nonpartisan voter education and registration activities.

20. CAIR-Florida engages with members of the public, the media, government officials, and leaders of other faiths to educate them about Islam and to address false stereotypes, prejudices, and disinformation about Islam.

21. For example, in meetings with Florida elected officials preceding the 2026 legislative session, CAIR-Florida addressed misinformation about Sharia, which is a moral and spiritual framework that guides Muslims' ordinary, personal exercise of faith in furtherance of values like honesty, service, and community. CAIR-Florida also posts materials correcting misconceptions about Sharia on social media and distributes them at public events. As CAIR-Florida has explained,

Sharia requires Muslims to comply with the laws of the land in which they reside, including the U.S. Constitution and other federal and state laws.

22. In 2025, CAIR-Florida publicly opposed Florida House Bill 119, commonly referred to as the "No Shari'a Act," and publicly criticized statements made by Governor Ron DeSantis in support of the bill.

23. CAIR-Florida also issued public statements urging the Florida Legislature to censure then-State Representative Randy Fine in response to statements he made on social media concerning the death of a Turkish-American human rights activist.

24. As part of its broader civil rights work, and frequently in conjunction with CAIR, CAIR-Florida engages in advocacy and legal support related to Palestinian human rights. For example, CAIR and CAIR-Florida have represented and advocated on behalf of Students for Justice in Palestine ("SJP") chapters targeted with governmental suppression of their exercise of freedom of speech and assembly, based on their disfavored viewpoints in support of Palestinian human rights. In November 2023, CAIR and CAIR-Florida sued Florida officials, including Governor DeSantis, on behalf of a local SJP chapter at the University of South Florida, challenging a state directive concluding that SJP chapters at Florida public universities must be deactivated. *See Students for Justice in Palestine at the Univ. of So. Fla. v. DeSantis*, No. 1:23-cv-00281 (N.D. Fla. 2023).

25. CAIR-Florida also helped successfully advocate for the return of Mohammed Ibrahim—a 16-year-old U.S. citizen detained by Israeli authorities beginning in February 2025. In addition, CAIR-Florida issued public statements in March 2025 condemning actions taken by the Mayor of Miami Beach to close a movie theatre that was screening an Oscar-winning Palestinian documentary.

26. CAIR-Florida's advocacy also relates to the impact of anti-Palestinian sentiment in Florida, and has included petitioning state officials. For example, in March 2025, CAIR-Florida issued a press release and action alert urging Florida residents to request that State Attorney Amira D. Fox pursue hate-crime charges in connection with vandalism of a Palestine supporter's vehicle.

27. CAIR-Florida has consistently condemned U.S. support for the Israeli government's human rights abuses against the Palestinian people as a matter of public policy advocacy. CAIR-Florida has also condemned Hamas violence against Israeli civilians, including Hamas's attacks on October 7, 2023.

CAIR-FLORIDA'S OPERATIONS

28. CAIR-Florida operates statewide, with offices located in Tampa and Sunrise. It has five board members, all of whom are based in Florida, and eleven staff members, ten of whom are based in Florida. It also works with six contractors, all of whom are based in Florida, and one subcontractor, who is not based in Florida.

29. CAIR-Florida's staff includes four licensed attorneys, advocacy specialists with prior government experience, communications personnel with extensive media and public relations expertise, and human resources personnel with institutional knowledge.

30. CAIR-Florida's employees and board members have chosen to work for CAIR-Florida and serve on its board, respectively, because they believe in, and wish to contribute to, CAIR-Florida's policy, religious, and civil-rights advocacy, including through their provision of specialized skills and speech to the organization. In associating with CAIR-Florida and with each other, our employees and board members advance our shared organizational mission.

31. CAIR-Florida has interests in properties and leases that run through July 2027, including in the building in which its Tampa office is located.

32. CAIR-Florida leases office space in Sunrise, Florida for its South Florida staff. That lease runs through September 2028.

33. CAIR-Florida has several financial accounts at multiple financial institutions.

34. To sustain its day-to-day operations, CAIR-Florida has entered numerous contracts, including for: utilities, internet access, staff cell phones, a phone system for fielding calls from community members seeking legal or advocacy support, a subscription service for managing legal files, a subscription

service for managing legal dockets, and insurance coverage for employees and board members.

35. CAIR-Florida regularly responds to requests for legal or advocacy support from Florida residents statewide. It either provides those services itself or, when it cannot do so, refers clients to other organizations that can provide adequate assistance.

TARGETING BY FLORIDA OFFICIALS

36. On December 8, 2025, Governor DeSantis issued Executive Order 25-244, which unilaterally designated CAIR as a "terrorist organization," imposing severe penalties on CAIR and on persons or entities that obtain benefits or privileges regulated by Florida and provide "material support" to CAIR. On December 15, 2025, CAIR and CAIR-Florida filed a lawsuit challenging Executive Order 25-244 as violating their rights under the First and Fourteenth Amendments of the U.S. Constitution. On March 4, 2026, the district court granted a preliminary injunction enjoining enforcement of the Executive Order against CAIR. In discovery in the lawsuit, Governor DeSantis admitted that he also considers CAIR-Florida a "terrorist organization."

37. In January 2026, through an X post, Florida Attorney General James Uthmeier put the city commission of Coral Springs, Florida, "on notice" that "state and local resources cannot be used by any organization affiliated with CAIR."

Following Attorney General Uthmeier's post, the South Florida Muslim Federation dissociated from CAIR-Florida, which had been a member of the Federation since its inception. CAIR-Florida was unable to take part in the Federation's annual conference in Coral Springs, of which CAIR-Florida had been a sponsor. CAIR-Florida employees were also forced to withdraw from planned participation in multiple conference panels.

38. CAIR-Florida planned to use the 22nd floor of the Florida State Capitol—traditionally used by organizations hosting similar events—for its 2026 Muslim Day at the Capitol. CAIR-Florida submitted a reservation request on December 3, 2025, and subsequently followed up on it over the course of one month. CAIR-Florida received no indication that the space was reserved; on the contrary, we were told that the space was available, but that our reservation request was under review. On January 13, 2026, Capitol staff informed CAIR-Florida that the 22nd floor was no longer available.

39. On February 2, 2026, one day before Muslim Day at the Capitol, Attorney General Uthmeier again posted on X, describing CAIR-Florida's planned advocacy on behalf of Muslim Americans as a designated foreign terrorist organization "call[ing] for a presence around the Florida Capitol." He also requested that law enforcement "be on heightened alert for any possible security threats" and asked the public to alert law enforcement of "suspicious activity." An

unusually large law enforcement presence focused on the event and its attendees, causing attendees to feel stigmatized and unsafe.

FLORIDA OFFICIALS' INITIAL INTENT TO DESIGNATE

40. On July 1, CAIR-Florida learned that the Chief of Domestic Security had sent Governor DeSantis a notice of intent to designate CAIR as a "domestic terrorist organization." Governor DeSantis and other Florida officials had already indicated that they also considered CAIR-Florida to be a "terrorist organization."

41. Florida officials' prior statements have targeted both CAIR and CAIR-Florida, and CAIR and CAIR-Florida work closely with each other. Also, by July 1, Governor DeSantis had already admitted in a lawsuit that he considers CAIR-Florida to be a "terrorist organization." The announcement of CAIR's imminent designation required CAIR-Florida to take immediate measures to protect itself and its stakeholders from criminal and civil liability.

42. Because of the impending designation, on July 1, CAIR-Florida began cancelling its recurring donations and shutting down its payment processors. Those steps were complete on July 2. We did this to protect ourselves and our donors—who support our mission and our work—from potential criminal charges under HB 1471.

43. On July 1, due to HB 1471, we paid a one-month advance to our staff so that, if the designation became effective, they could stop work with at least a little

financial cushion—for most of our staff, their jobs are their primary source of income. For obvious reasons, we did not want to terminate all of our staff before a designation went into effect and pending a constitutional challenge; without staff, CAIR-Florida cannot function. But we also did not want to create legal risks for staff if the designation went into effect, and we did not want to end up in a scenario where staff had no financial buffer if the organization were forced to shut down. We felt we had no choice but to pay this one-month advance due to HB 1471, which diverted funds from other organizational work.

44. After we and CAIR filed a federal lawsuit to prevent our impending designation, Florida officials committed to not designating us until after they issued regulations—August 10 at the earliest.

45. At that point, we tried to reinstate our recurring donations. Our staff put considerable time into this. We were able to reinstate some of our recurring donations, but not all. We lost 19 recurring donations, amounting to approximately $2,300 per month.

FLORIDA OFFICIALS' ONGOING INTENT TO DESIGNATE

46. On September 11, 2026, CAIR-Florida learned that Florida officials had issued a new, emergency rule to implement HB 1471.

47. On September 18, we received a notice from the Chief of Domestic Security in the mail. The notice said that the Chief of Domestic Security intended to designate us and CAIR as "domestic terrorist organizations."

48. We and CAIR submitted written objections to the notice of intent on September 25.

49. On September 29, we learned that the Governor and Cabinet had voted to approve our designation.

50. Unless the court intervenes, the designation will become effective on November 5.

THE HARMS OF DESIGNATION

51. Being targeted under HB 1471 is already harming CAIR-Florida. And unless the Court prevents the designation from becoming effective, we will be forced to fully suspend our operations to protect ourselves and our employees, board members, contractors, volunteers, donors, and other community members from harsh penalties.

52. The costs of even a temporary suspension of CAIR-Florida's activities will be significant, and the administrative burden of restarting CAIR-Florida's operations will be substantial.

53. From my knowledge of CAIR-Florida, its stakeholders, and the community, I know that people viewed the July 1 effective date of HB 1471 with

fear because designation results in criminal prosecution and civil penalties for virtually anyone associated with CAIR-Florida. They see the November effective date of designation the same way. We want to protect ourselves and our stakeholders from those risks.

How Being Targeted Under HB 1471 is Already Harming CAIR-FL and Will Harm CAIR-FL Even Further Before the Designation Becomes Effective

54. Leading up to July 1, 2026 (the effective date of HB 1471), members of our staff were gravely concerned about the risk of criminal penalties if staff continued to work for CAIR-Florida. We held several meetings to address these concerns, including with CAIR. We needed to hold these meetings to understand the risks of designation and address our staff members' concerns. We spent time securing criminal defense attorneys, in the event of investigation and prosecution. This required us to divert resources away from our other work, including advocacy work to defend civil rights and liberties in Florida, to challenge stereotypes of Islam and Muslims, and to empower Muslim communities.

55. Leading up to July 1, because of the looming threat of designation, two CAIR-Florida staff members—our Policy Director and Programs and Outreach Manager—left the organization. Their departures heavily damaged our work in support of our Florida community.

56. Also leading up to July 1, senior members of our staff devoted significant time to developing contingency plans for shutting down our operations because of a designation. We necessarily had to develop and start implementing these plans in advance of a vote on designation. Suspending our operations requires advance planning and actions, including suspension of payroll and benefits for staff; ensuring legal and financial compliance; ensuring security of legal client and donor data; suspending vendor contracts, such as for office equipment and staff work cell phones; suspension of donations and other fundraising as described further below; communications to stakeholders and community members who rely on us for legal and advocacy services. That, too, diverted resources from our normal administrative, fundraising, and advocacy work.

57. After June 10, 2026, in anticipation of our designation under HB 1471, we started turning away prospective legal clients we otherwise would have taken on, even though representing members of our community is extremely important to us. We did not feel we had any other choice, because (a) we understood that if we were designated, our attorney employees would not be able to work for us without risking severe criminal punishment, (b) if we waited until the last moment before designation, we would run the risk of being unable to secure alternative counsel for our clients, and (c) we were concerned that taking on new clients, under the circumstances, might violate the Florida Bar's ethical rules. We also did not think it

would be in any prospective client's interests to begin an attorney-client relationship with us and then have us suddenly become unable to work with them due to HB 1471.

58. After learning that Florida officials would not designate us before issuing regulations, we resumed conducting intakes and consults. But because we understood that designation was still impending, we never resumed initiating new litigation or long-term matters. Now that Florida officials have designated us, we will be forced to stop conducting intakes and consults again before the designation becomes effective.

59. We do not want to break the law. And we understand that continuing any of our operations after the effective date of the designation could expose our nonprofit, our staff and board, and our community stakeholders to extremely serious penalties. So, we have no choice but to wind down our operations before November 5. Shutting our operations down takes planning and time and we have to start implementing the wind down by October 14. This will make it impossible for us carry out our ordinary activities even before the designation becomes effective.

60. The designation is already interfering with our fundraising. We ordinarily hold three annual fundraising galas. These galas are life-sustaining for CAIR-Florida. They account for more than half of our annual fundraising and support all aspects of our work, from staff salaries and operational expenses to civil rights

advocacy, outreach, and community rights education work. All three of our galas this year were scheduled to take place between October 11 and November 8. After we received the notice of intent to designate CAIR-FL, we had to indefinitely postpone all three galas because of the likelihood the designation becomes effective, and because the threat of the designation becoming effective is already causing concern and hesitancy among our donors. As a result, we are at risk of losing thousands of dollars in deposits alone.

61. CAIR-Florida depends on donations. Postponing our galas is extremely disruptive and harmful to us.

62. Before the effective date of the designation, we will be forced to terminate communications with, and outreach to, our network of hundreds of volunteers who support and assist CAIR-Florida in our statewide work.

63. Before the effective date of the designation, we will instruct CAIR-Florida staff to remove organizational social media accounts from their devices, turn off viewers' ability to interact with our posts, and post no new content. We will also stop posting new press releases on CAIR-Florida's website, which we typically do once or twice per month.

64. Before the effective date of the designation, we will be forced to stop maintaining CAIR-Florida's community helpline, leaving members of Florida's

Muslim community who have experienced discrimination without access to our legal and advocacy support.

65. Being designated as a "domestic terrorist organization" and having that designation published in the Florida Administrative Register and on the Florida Department of Law Enforcement website is inherently stigmatizing; it undermines the trust and credibility we have built with donors, community members, volunteers, and supporters. Our trust and credibility go beyond monetary value and are integral to our ability to carry out our mission.

66. I believe that CAIR-Florida's being targeted under HB 1471 is causing community members to view CAIR-Florida and our employees with suspicion and uncertainty—and that people will cut ties with, or at least distance themselves from, CAIR-Florida.

67. Even if the designation is removed in the future, repairing the reputational damage inflicted by the designation will require an extensive investment of time and resources. Being targeted under HB 1471 is already hurting CAIR-Florida's relationships with our donors, partner organizations, and the communities we serve; once effective, the harms will be even greater. There is no guarantee that CAIR-Florida will ever be able to fully rebuild these relationships. For example, even though a court stopped CAIR's designation under Governor DeSantis's Executive Order from going into effect, CAIR-Florida has been unable

to reestablish a regular presence at some mosques, which stopped communicating and working with us when that designation was announced.

68. Similarly, even if the HB 1471 designation is removed in the future, CAIR-Florida will have to rebuild its funding streams and donor relationships. Because it will not receive any donations or grants while its designation is in effect, CAIR-Florida will have to divert substantial additional time, effort, and resources into its fundraising efforts to avoid falling into a deficit.

How the Designation Will Harm CAIR-Florida Once It Becomes Effective

Our Ability to Speak To, Advocate For, and Associate With Our Community

69. Once the designation is effective, we will not be able to associate with the Florida mosques, community groups, and other nonprofit organizations with whom we have built ongoing partnerships, and with the members of the Florida public we serve.

70. Once effective, the designation will prevent us from continuing our longstanding association with CAIR to empower, educate, and defend Florida Muslims. We will be forced to stop reporting to, and acting jointly with, CAIR to carry out our shared mission through policy and legal advocacy, press releases, and other public communications and social media coordination.

71. Once effective, the designation will prevent us from attending, or planning for, multiple upcoming events. One example is Muslim Day at the Capitol, a civic event currently scheduled for March 30, 2027. An event like that takes months to plan for, and the work is already underway. But once the designation is effective, we will not be able to participate in planning with our coalition partners—including at a scheduled meeting on November 11. Other examples of meetings we would otherwise attend include a December 10 meeting of Tampa Bay ABC 28's Community Advisory Committee, which we are a part of, and the weekly calls of the State Voices Voting Rights coalition.

72. Once effective, the designation will prevent us from engaging with elected officials on behalf of our community, ahead of the upcoming legislative session. Normally, we would begin scheduling meetings with elected officials immediately after the November 3 midterm elections. But when the designation becomes effective (on November 5), it will be impossible for us to attend any meetings we have scheduled.

73. Because of the risk of prosecution once the designation becomes effective, our attorneys may even need to stop providing legal services to their clients.

74. Our attorneys maintain a substantial immigration docket of more than 100 files, representing clients in Miami and Orlando immigration courts as well as

in interactions with U.S. Citizenship and Immigration Services. CAIR-Florida's immigration practice frequently involves emergency matters, such as referrals from individuals in detention or facing other serious harm.

75. CAIR-Florida also represents multiple clients across several cases related to discrimination, including cases currently pending before the Equal Employment Opportunity Commission. All communications between these clients and the federal government occur through CAIR-Florida. CAIR-Florida's clients will also require representation in an upcoming mediation. In addition, CAIR-Florida jointly represents several Florida residents alongside CAIR in an out-of-state proceeding.

76. Once effective, the designation will also hurt CAIR-Florida's ability to obtain its own counsel to represent it in current and future lawsuits. For example, CAIR-Florida is currently represented by counsel in Florida in *Illoominate Media, Inc. v. CAIR Florida, Inc*., No. 9-cv-81179 (S.D. Fla. 2019), in which it is receiving settlement payments. There is a substantial risk that either designation will force CAIR-Florida's counsel to cut ties with it, leaving it unrepresented. An effective designation may also prevent CAIR from obtaining proceeds to which it is entitled from the case.

Our Staff and Finances

77. Once effective, the designation will leave us unable to solicit grants and donations in any way at all. For example, we will not be able to participate in "Giving Tuesday" on December 1, a day when some companies match charitable donations. We will also be unable to launch our "End of the Year" campaign—our final fundraising push of the year.

78. CAIR-Florida is a statewide operation with multiple offices and departments, all requiring contracts and subscriptions (such as Filevine and Quickbooks) to function. If the designation becomes effective, CAIR-Florida will also be responsible for payments under any contracts it was unable to suspend before discontinuing operations, even if it is unable to use those services.

79. We understand that our bank accounts may be frozen once the designation is effective. If our bank accounts are frozen, we may not be able to fulfill our existing contractual obligations.

80. We understand that we may be unable to receive rent payments from tenants who lease properties in which CAIR-Florida has an interest. One tenant has already expressed concern to us about exposure to criminal liability for paying rent.

81. Once the designation is effective, we understand that using any location—including our own offices—to further our interests is per se a "public

nuisance," and any citizen of a county where we operate can sue to stop us from operating, claiming we are a "public nuisance." Even if the Defendants in this case were prevented from enforcing provisions of HB 1471, the threat of suits from the public will make it difficult to continue our work. At any time, a citizen of the county where we work could drag us or the owner of the building where we are working to court and force us to halt our use of that location to advance our lawful speech and advocacy.

Our Ability to Seek Justice in the Courts

82. Once effective, the designation will seriously impede CAIR-Florida's ability to defend its rights in court. We understand that, once the designation is effective, it will be a crime for CAIR-Florida or anyone else to initiate, organize, plan, finance, direct, manage, or supervise any activity intended to further CAIR-Florida's interests. We also understand that, once the designation is effective, it will be a crime for anyone to provide material support to CAIR-Florida.

83. Under the new emergency rule, if we are challenging a designation or defending ourselves against criminal charges, *others* can provide us with legal counsel and legal support services without being prosecuted.

84. Even though the emergency rule may protect our lawyers in this lawsuit, it does not protect CAIR-Florida, its board, or its staff. So, once the designation is effective, CAIR-Florida, its board, and its staff will be at risk of prosecution and

severe punishment just for initiating conversations with our attorneys, making litigation decisions, collecting documents, and preparing discovery responses—including in this case.

85. I know some of our employees are concerned that, once the designation is effective, participating in this lawsuit will violate the law. I personally am concerned that my participation would put me at risk of prosecution.

The Cumulative Effects of Designation

86. If the designation becomes effective, CAIR-Florida's institutional voice will be silenced, and its advocacy on legal, policy, cultural, social, and civic issues of public concern will be completely suppressed. CAIR-Florida will also be indefinitely unable to benefit from the expertise of its employees, including its attorneys, advocacy specialists, and communications experts.

87. In other words, by forcing CAIR-Florida to stop any communications and work with our stakeholders, criminalizing the basic functions and transactions necessary for us to operate, and silencing our speech across all our public platforms, an effective designation will prevent us from carrying out our faith-driven mission.

I declare under penalty of perjury that the foregoing is true and correct. This declaration is executed on October 2, 2026.

/s/ Wilfredo Ruiz
Wilfredo Ruiz

Exhibit E

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

CAIR-FOUNDATION, INC. and
CAIR FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:26-cv-521-MW-MAF

RON DESANTIS, *et al.*,

Defendants.

DECLARATION OF MARYAM HASAN

Pursuant to 28 U.S.C. § 1746, I, Maryam Hasan, declare as follows:

1. I am a resident of Florida and over the age of eighteen. I have personal knowledge of the facts set forth in this declaration. If called to testify, I could and would testify competently to these facts under oath. I am providing this declaration in my role as a volunteer Strategic Campaign Specialist for CAIR-Foundation, Inc. ("CAIR").

2. I have been a volunteer with CAIR since August 2024. I volunteer with CAIR because I believe strongly in its mission to protect civil rights, promote justice, educate the public about Islam, and empower American Muslims through advocacy. Currently, I work remotely on CAIR matters from Orlando, Florida, including on matters related to CAIR's work in Florida based on publicly available information, such as researching and investigating events in Florida to assist in

preparing CAIR's Hostile Campus Report, which discusses universities' and colleges' treatment of free speech, respect for civil rights, the right to protest, and opposition to Islamophobia in Florida's places of higher education. This is intended to be an annual report for which I conduct year-round work.

3. Due to HB 1471, if CAIR's designation becomes effective, CAIR will no longer allow me to serve as a volunteer for the organization from Florida.

4. Once CAIR's designation becomes effective, even if CAIR were to allow me to continue as a volunteer, I would not do so, given HB 1471's severe criminal and civil penalties for contributing to CAIR. I do not want to violate any law.

5. If the courts were to conclude that HB 1471 is unconstitutional and prevent Florida officials and prosecutors from enforcing its provisions, I would resume my volunteer work for CAIR. I care deeply about my work as a Strategic Campaign Specialist and want to continue doing it.

I declare under penalty of perjury that the foregoing is true and correct.

Executed October 1, 2026.

/s/ Maryam Hasan
Maryam Hasan

Exhibit F

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

CAIR-FOUNDATION, INC. and
CAIR FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:26-cv-521-MW-MAF

RON DESANTIS, *et al.*,

Defendants.
_____/

DECLARATION OF NICHOLAS WARREN

I, Nicholas Warren, declare as follows:

1. I am a senior staff attorney with the ACLU Foundation of Florida.

2. I attended the September 29, 2026 Florida Cabinet meeting with a colleague from the American Civil Liberties Union Foundation, Hina Shamsi, who represents Plaintiffs CAIR-Foundation, Inc. ("CAIR") and CAIR Florida, Inc. ("CAIR-Florida") in this action. I understood that, during this meeting, Governor DeSantis and the Cabinet intended to vote to approve or reject the Domestic Security Officer's recommended designation of CAIR and CAIR-Florida as "domestic terrorist organizations" under Florida's new state terrorist organization designation regime.

3. Ms. Shamsi and I arrived at the Cabinet Meeting Room early. Before the meeting began, we sought to find a cabinet aide to inform them that Ms.

Shamsi was present on behalf of CAIR and CAIR-Florida and request to speak during the meeting on their behalf. We spoke with the only cabinet aide behind the well of the Cabinet Meeting Room at the time we arrived, Victoria Dehner, who is Cabinet Affairs Director for the Chief Financial Officer. We informed Ms. Dehner that Ms. Shamsi represented CAIR and CAIR-Florida, was at the meeting to speak on the proposed designation, and wished to let the right Cabinet officials know so that she could be heard during the meeting. Ms. Dehner told us she would let the right people know and that she or another person would get back to us. She did not speak to us again. We waited for a response at the front of the room, where we had spoken to Ms. Dehner, until the audience was asked to sit down because Governor DeSantis was arriving.

4. After the meeting began and several topics had been discussed, Governor DeSantis asked Mark Glass, the Commissioner of the Florida Department of Law Enforcement and Chief of Domestic Security, to address the pending designations of various groups as "terrorist organizations." Mr. Glass did so briefly, recommending that the designations be approved based on the information contained in the notice of intent provided for each organization. Governor DeSantis swiftly moved the approval process forward. Ms. Shamsi and I did not know at this time whether Governor DeSantis would or would not

recognize her to speak on behalf of CAIR and CAIR-Florida before the Cabinet was asked to approve the designations.

5. As Governor DeSantis began to state that the motion to approve the designations carried without objection, Ms. Shamsi stood up (in the third row of the audience, which was the first row with seating not reserved for state agency staff) and asked, "Governor, may I speak on behalf of CAIR and CAIR-Florida?" Governor DeSantis ignored Ms. Shamsi, concluded the agenda item, and congratulated Commissioner Glass.

6. The entire process of approving the pending designations—from when Commissioner Glass began speaking about the designations, to when Governor DeSantis and the Cabinet approved the designations without pausing for any objection, comment, discussion, or debate—took about 30 seconds.

I declare under penalty of perjury that the foregoing is true and correct.

Executed October 2, 2026.

/s/ Nicholas Warren
Nicholas Warren

Exhibit G

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

CAIR-FOUNDATION, INC. and
CAIR FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:26-cv-521-MW-MJF

RON DESANTIS *et al.*,

Defendants.
_____/

DECLARATION OF CELIN CARLO-GONZALEZ

I, Celin Carlo-Gonzalez, declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.

2. I am a lawyer with the American Civil Liberties Union Foundation. I represent Plaintiffs in this case.

3. Attached as exhibits are copies of the following:

   a. **Exhibit A**, Ron DeSantis, (@GovRonDeSantis), X (July 1, 2026, at 2:48 p.m.), https://perma.cc/5T5L-J8ZX.

   b. **Exhibit B**, Ron DeSantis, (@GovRonDeSantis), X, *Governor DeSantis Announces Implementation of Florida Law to Combat Terrorist Organizations* (July 1, 2026, at 1:00 p.m.), https://x.com/i/broadcasts/1oJMvvjPyjlxQ (a screenshot of the webpage on which the video appeared is attached as Exhibit B).

c. **Exhibit C**, Press Release, Executive Office of the Governor, *Governor Ron DeSantis Announces Implementation of Florida Law to Combat Terrorist Organizations* (July 1, 2026), https://perma.cc/2EDK-W3BC.

d. **Exhibit D**, Notice of Intent of Designating Council on American-Islamis Relations (CAIR), including CAIR-Florida, as a Florida Domestic Terrorist Organization, received on September 18, 2026.

e. **Exhibit E**, Plaintiffs' Objection to Designation of CAIR and CAIR-Florida as "Domestic Terrorist Organizations" under Fla. Stat. § 943.03102, dated September 25, 2026 (with attachments as Exhibits 1–5).

f. **Exhibit F**, The Florida Channel, *9/29/26 Florida Cabinet Meeting* (Sept. 29, 2026), https://thefloridachannel.org/videos/9-29-26-florida-cabinet-meeting/ (a screenshot of the webpage on which the video appears is attached as Exhibit F).

I declare under penalty of perjury that the foregoing is true and correct.

Executed October 2, 2026.

/s/ Celin Carlo-Gonzalez
Celin Carlo-Gonzalez

Exhibit G-1

Exhibit D

Notice of Intent of Designating **Council on American-Islamic Relations (CAIR), including CAIR-Florida,** as a Florida Domestic Terrorist Organization

Notice To: Council on American-Islamic Relations
Address: 453 New Jersey Ave SE, Washington, DC 20003

Notice To: CAIR Florida
Address: 8076 N 56th St, Tampa, FL 33617

The Chief of Domestic Security formally issues this Notice of Intent for the purpose of designating **Council on American-Islamic Relations (CAIR), including CAIR-Florida,** as a Florida Domestic Terrorist Organization.

In accordance with CS/CS/HB 1471 (2026) and s. 943.03102, a designated domestic terrorist organization must meet the following legal criteria:

1. The organization is based or operates in this state or the United States.
2. The organization is engaging in terrorist activity as defined in s. 775.30.
3. The terrorist activity of the organization is an ongoing threat to the security of this state or the United States.

Per Section 943.03102(2) FS, please be advised that a public meeting regarding this designation will be held:

Date: September 29, 2026 Time: 09:00 EST

Location: Florida Cabinet Meeting Room, The Capitol
400 S Monroe St, Tallahassee, FL 32399

Process for Objection/Removal/Appeal:
You may, within seven days of receipt of this notice, object to the proposed designation in writing and provide any information and documentation you believe would counsel against the designation.

To object to the designation, you may submit your objection to the Florida Department of Law Enforcement via email at DesignationAppealorObjection@fdle.state.fl.us or at the following address:

Florida Department of Law Enforcement
c/o Chief of Domestic Security
Agency Clerk
PO Box 1489
Tallahassee, FL 32302-1489

In the event the Governor and Cabinet approve the designation, you may petition the Department at any time for the removal of such designation. The petition for removal may include any information and documentation you believe would support removal of the designation. You can submit your petition and documentation to the above Department addresses.

To appeal the outlined designation, you or any of your members may challenge such designation in the Circuit Court of the Second Judicial Circuit in and for Leon County.

Part 1 – Domestic Terrorist Organization Criteria:

☒ 1. **Observed Base or Operations Sites in this state or the United States**

- The organization is based or operates in Florida; or
- The organization is based or operates in the United States.

☒ 2. **Engaging in Terrorist Activity as Defined in s. 775.30**

Section 775.30 provides:

- (1) As used in this chapter and the Florida Criminal Code, the terms "terrorism" or "terrorist activity" mean an activity that:
  (a) Involves:
  1. A violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or
  2. A violation of s. 815.06; and
  (b) Is intended to:
  1. Intimidate, injure, or coerce a civilian population;
  2. Influence the policy of a government by intimidation or coercion; or
  3. Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.
- (2) A person who violates s. 782.04(1)(a)1. or (2), s. 782.065, s. 782.07(1), s. 782.09, s. 784.045, s. 784.07, s. 787.01, s. 787.02, s. 787.07, s. 790.115, s. 790.15, s. 790.16, s. 790.161, s. 790.1615, s. 790.162, s. 790.166, s. 790.19, s. 806.01, s. 806.031, s. 806.111, s. 815.06, s. 815.061, s. 859.01, or s. 876.34, in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping, commits the crime of terrorism, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

☒ 3. **Ongoing threat to the security of this state or the United States**

- The terrorist activity of the organization is an ongoing threat to the security of this state or the United States.

Part 2 – Basis Summary Findings:

During the 2008 Holy Land Foundation (HLF) trial, the U.S.-Muslim Brotherhood's Palestine Committee (PALCOM) was revealed as a committee whose sole purpose was supporting Hamas from within the U.S. with media, money, and personnel. The HLF, Islamic Association for Palestine (IAP), United Association for Studies and Research (UASR), and CAIR were identified as PALCOM's organizational structures designated to achieve PALCOM's goals. The IAP printed the founding Hamas charter in English for wider consumption in the western hemisphere. The founding charter called for the annihilation of Israel through violent jihad, to include suicide bombings against civilian targets to be carried out by the Al-Qassam Brigades.

There is substantial evidence that CAIR is engaging in terrorist activity. CAIR's founding members have connections with Hamas leadership to include Mousa Mohammed Abu Marzook. Additionally, co-founding CAIR-TX member Ghassan Elashi, who was convicted of dealings and material support to Specially Designated Terrorists, also has ties to Hamas. Likewise, as referenced below, current CAIR members have connections with an alleged member of the Palestine Islamic Jihad (PIJ). During the October 7, 2023, terror attacks in Israel, Hamas and PIJ members brutally murdered, kidnapped and raped Israelis and foreign nationals, to include U.S. civilians. The terror attacks were accomplished utilizing a vast tunnel network built by Hamas.

This tunnel system in Gaza and Israel was built over decades and cost over $1 billion to construct. In 2014, Hamas reportedly spent $90 million to build just three dozen tunnels.

- **1928** – **Muslim Brotherhood** founded in Egypt.

- **1987** – members of the **Muslim Brotherhood** create **Hamas**.

- **1993** – Members of the Palestine Committee of the **Muslim Brotherhood** in the United States met in Philadelphia to discuss Oslo Accords and the conversation focused on how to continue to support Hamas (not yet a U.S.-designated terrorist organization). The Palestine Committee included three Hamas-supporting organizations in the United States—the IAP, the Occupied Land Fund (later named the Holy Land Foundation, or HLF), and the UASR. CAIR co-founder, Nihad Awad, and Ghassan Elashi (co-founder of CAIR-TX) were identified as presenters at a "Future of Islamic Action for Palestine in North America Seminar." Documents seized in relation to the HLF trial from these meetings suggest ties within the U.S. to support efforts by the Muslim Brotherhood and Hamas. Nihad Awad is currently CAIR's National Executive Director.

https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/2025-02/philly-meeting-summary.pdf
https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/2025-02/Philly%20Meeting%204.pdf
https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/2025-02/Ashqar_Search_4.pdf

- **1994** – Former IAP members Nihad Awad, Omar Ahmad and a third man founded the Council on American-Islamic Relations, or CAIR (HLF – wiretapped transcripts indicate a "front" organization would be needed to "camouflage" their actions).

- **1997** – Hamas and PIJ were designated as Foreign Terrorist Organizations (FTO).

https://www.state.gov/foreign-terrorist-organizations/

- **2001** – **HLF** was designated a Specially Designated Global Terrorist organization for funneling millions to Hamas, following the latter's designation as a terrorist group in 1997.

https://sanctionssearch.ofac.treas.gov/?SEQ=sanctions+list+search

- **2002** – Ghassan Elashi was arrested for conspiracy, money laundering, and dealing in the property of a designated terrorist with his brothers Bayan and Basman. The three brothers reportedly tried to hide Hamas official **Mousa Mohammed Abu Marzook's** $250,000 investment in their Texas-based company (Infocom). Bayan was the chief executive officer; Ghassan was the vice-president of marketing; and Basman was the logistics and credit manager.

https://www.justice.gov/archive/usao/txn/PressRel06/elashi_bayan_ghassan_basman_infocom_sent_pr.html

  - Mousa Mohammed Abu Marzook: served as the first chairman of the Hamas Political Bureau in the early 1990s.

- **2008** – **HLF** conviction of five indicted conspirators found them guilty on more than 100 counts in criminal trial. Ghassan Elashi was convicted of conspiracy to provide material

support to a foreign terrorist organization (i.e. Hamas). **CAIR** was an unindicted co-conspirator.

https://www.justice.gov/archives/opa/pr/federal-judge-hands-downs-sentences-holy-land-foundation-case

- **2014** – The United Arab Emirates (UAE) designates **CAIR** as a terrorist group due to its ties to the global **Muslim Brotherhood** which includes **Hamas**. CAIR is still listed on the "Local Terrorist List," within the "Sanctions List" as of 2026.

https://www.uaeiec.gov.ae/en-us/un-page?p=1#

- **2023** – Hamas and PIJ launched terror attacks against Israel which led to the deaths of more than 1,200 Israelis and foreign nationals (including 46 U.S. citizens in Israel). Additionally, Hamas took 254 hostages, of which 12 were U.S. citizens. In 2006, Hamas and PIJ started the Joint Operation Room (JOR) for the Palestinian Factions of Resistance, which grew to include many major and minor militant Palestinian factions in Gaza and the West Bank. This JOR hosted training operations, including drilling tactics that were later utilized in the October 7th attack.

https://www.state.gov/releases/office-of-the-spokesperson/2025/10/two-year-anniversary-of-october-7th-attack
https://ctc.westpoint.edu/the-path-to-october-7-how-iran-built-up-and-managed-a-palestinian-axis-of-resistance/

- **2025** - As head of Hamas' foreign relations office, Mousa Mohammed Abu Marzook said he would not have supported an attack on Israel had he known of the devastation it would wreak on Gaza. According to an article published on February 24, 2025, he told the New York Times "Hamas was open to releasing all hostages at the same time, if Israel was willing to free the thousands of Palestinians in its prisons, end the war and withdraw from Gaza." On May 12, 2025, U.S.-Israeli hostage Edan Alexander, thought to be the last U.S. citizen held by Hamas who was still alive, was freed.

https://www.nytimes.com/2025/02/24/world/middleeast/hamas-official-interview-attack-israel.html
https://www.bbc.com/news/articles/c4gr2qvzn0no

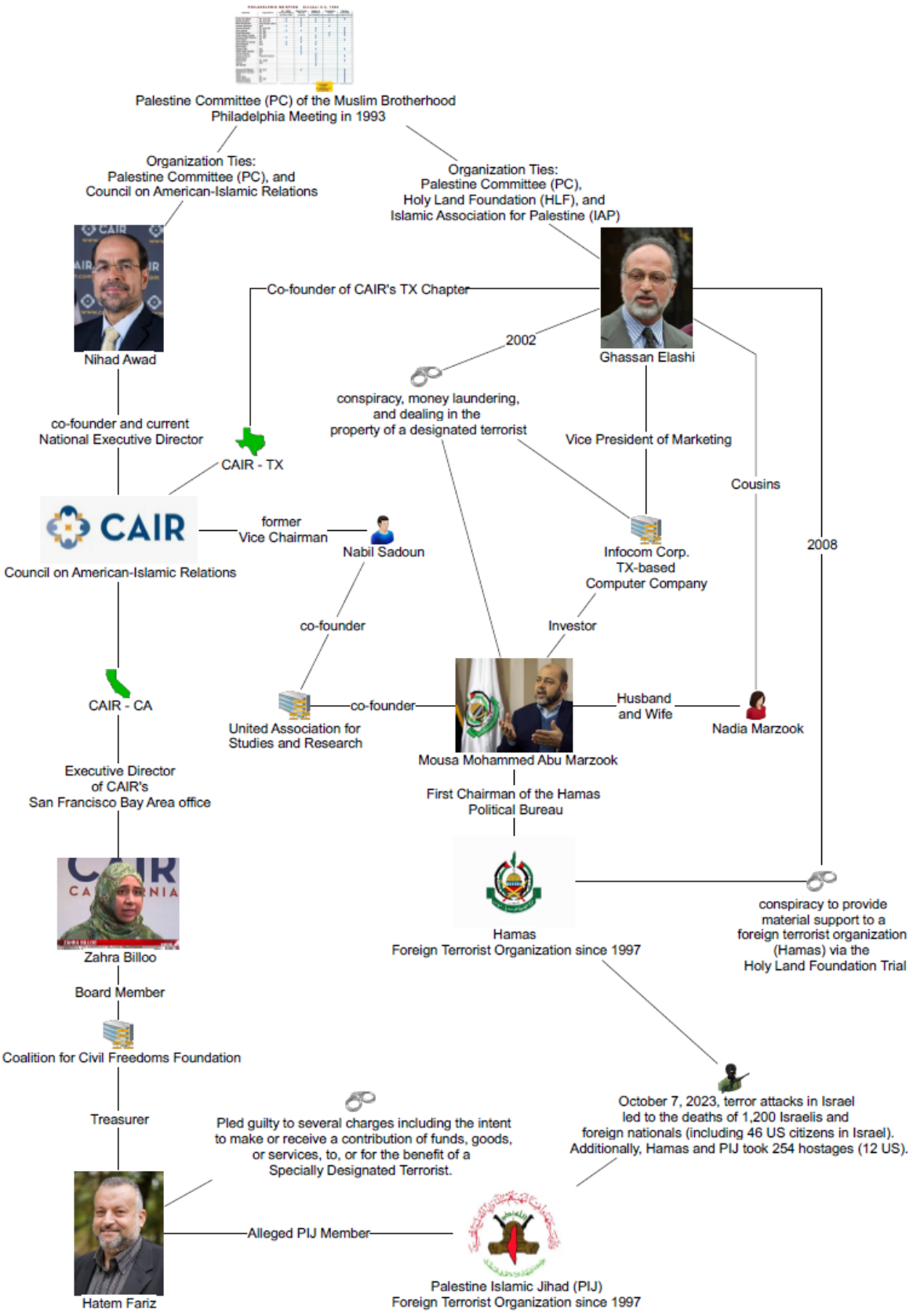
- **2025** – Texas designates CAIR as an FTO.

- **2026** – **Muslim Brotherhood** chapters (Lebanese Muslim Brotherhood and Sudanese Muslim Brotherhood) designated as Foreign Terrorist Organizations and a Specially Designated Global Terrorist organization by the U.S. Government.

- **2026** – Retired FBI Agent Lara Burns, Senior Litigation Counsel Arielle Klepach, and Homeland Security Senior Analyst Kyle Shideler provided testimony to the U.S. Senate Committee on the Judiciary regarding ties between the Muslim Brotherhood and PALCOM organizations, to include CAIR, titled "Hidden in Plain Sight: Confronting the Muslim Brotherhood Network in America."

https://www.judiciary.senate.gov/committee-activity/hearings/hidden-in-plain-sight-confronting-the-muslim-brotherhood-network-in-america-08-05-2026

UNCLASSIFIED



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1. Historical Action Against CAIR

In November 2014, the UAE designated CAIR as a terrorist organization due to alleged ties to the Muslim Brotherhood and concerns in promoting extremism. The UAE upheld their designation when challenged due to CAIR's honoring of convicted Palestinian Islamic Jihad terrorist Sami Al-Arian, former University of South Florida professor, with a "Promoting Justice Award." According to open-source reporting and the UAE's anti-terror legislation by the Emirates, an annual review of their terrorist organization designations must be conducted.

2. Recent Legal or Legislative Action Against CAIR in the U.S.

As of November 2025, CAIR is designated as a Foreign Terrorist and Transnational Criminal Organization under Texas Penal and Texas Property Codes, which led to property acquisition bans and civil enforcement authority for the Attorney General. Texas' Governor directed the Texas Department of Public Safety to launch criminal investigations into CAIR and the Muslim Brotherhood, and announced a separate investigation into 'Sharia tribunals masquerading as legal courts' in Collin and Dallas counties. In December 2025, the Governor formally requested the U.S. Treasury Department to investigate and suspend CAIR's 501(c)(3) tax-exempt status for its three entities operating in Texas. In February 2026, Texas' Attorney General filed lawsuits against CAIR and the Muslim Brotherhood, with the intent to ban them from operating in Texas, prohibit fundraising and membership solicitation, and block property ownership in the state.

Federally, on June 24, 2025, a Florida Representative introduced H.R. 4097: Designate CAIR as a Terrorist Organization Act. The bill was last referred to the House Committee on the Judiciary the same day without any additional action published by the House. The bill aimed to have a review conducted on CAIR to determine whether the organization meets criteria for designation as a FTO pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

In August 2025, an Arkansas Senator formally requested the Internal Revenue Service investigate CAIR's 501(c)(3) compliance due to their alleged ties to Hamas and the Muslim Brotherhood. In January 2026, Chairman Cody Smith, representing Missouri, referred CAIR-California for IRS investigation and potential revocation of tax-exempt status, referencing Texas' FTO designation and alleged systematic misuse of millions in taxpayers' dollars. At this time, Texas joined a legal brief in a federal case targeting American Muslims for Palestine (AMP), whose predecessor's board members were convicted of providing material support for Hamas, with overlapping ties to the same Palestine Committee network cited in CAIR cases.

3. CAIR's ties to persons previously convicted of terrorist financing

CAIR California's San Francisco Bay Area (CAIR-SFBA) Executive Director Zahara Billoo is listed as a Board Member of the Coalition for Civil Freedoms Foundation, according to their last publicly published 990EZ Tax Form. Hatem Fariz is identified as the foundation's Treasurer. According to the U.S. Department of Justice, Hatem Fariz was an alleged Palestinian Islamic Jihad (PIJ) member. Hatem Fariz pleaded guilty to several charges including the intent to make or receive a contribution of funds, goods, or services, to, or for the benefit of a Specially Designated Terrorist.

<u>Convictions</u>
State/Federal Court: U.S. District Court, Northern District of Texas
Case #: CR No. 3:04-00240-P(N.D.T.X) United States v. Holy Land Foundation, et al.
Person: Ghassan Elashi

UNCLASSIFIED

Case Summary: On May 27, 2009, five Holy Land Foundation leaders were convicted of Providing Material Support to the Hamas Terrorist Organization. One of the leaders, Ghassan Elashi, 55, of Richardson, Texas, was sentenced to a total of 65 years in prison for 10 counts of conspiracy to provide, and the provision of, material support to a designated foreign terrorist organization; 11 counts of conspiracy to provide, and the provision of, funds, goods and services to a Specially Designated Terrorist; 10 counts of conspiracy to commit, and the commission of, money laundering; and one count of conspiracy to impede and impair the Internal Revenue Service; and one count of filing a false tax return. According to the superseding indictment (pg.6) the Holy Land Foundation was created by Elashi and two others as the fundraising component of the Palestinian Committee, whose purpose was to support Hamas.

Significance: According to the U.S Department of State, Hamas is a designated foreign terrorist organization (since 1997). According to open-source news, Elashi was one of the founding members of CAIR's Texas chapter. CAIR was designated by the State of Texas as a foreign terrorist and transnational criminal organization by Governor Greg Abbott (18-Nov-2025 proclamation). Texas Attorney General Ken Paxton has filed a lawsuit (26-Feb-2026) against the Muslim Brotherhood and CAIR, which identifies CAIR as the American Chapter of the Muslim Brotherhood.

According to the U.S. Office of the Director of National Intelligence (ODNI) the Hamas charter calls for establishing an Islamic Palestinian state in place of Israel and rejects all agreements made between the Palestinian Liberation Organization and Israel. Hamas' strength is concentrated in the Gaza Strip and areas of the West Bank. Hamas has a military wing known as the Izz al-Din al-Qassam Brigades that has conducted many anti-Israel attacks in both Israel and the Palestinian territories since the 1990s. These attacks have included large-scale bombings against Israeli civilian targets, small-arms attacks, improvised roadside explosives, and rocket attacks. On October 7, 2023, Hamas launched a terrorist attack from the Gaza Strip into Israel. More than 1,200 Israelis and foreign nationals (including 46 U.S. citizens in Israel) were killed, and Hamas and other groups also seized an estimated 251 hostages.

According to government documents presented during the U.S. v. HLF trial, Nihad Awad, CAIR's current National Executive Director, was listed as a representative of CAIR during a meeting held between October 2–3, 1993, in Philadelphia. The organization is believed to have been created at this meeting where Hamas operatives – under FBI surveillance – strategized about how to support Hamas's mission while evading law enforcement detection. The wiretapped transcripts captured attendees, including Nihad Awad, discussing the need for "deception," "camouflage," and maintaining a "front" organization. One year later, Nihad Awad and Omar Ahmad officially founded CAIR. Additionally, in a 1994 forum discussion videotaped at Barry University, Awad declared: "I am in support of the Hamas movement."

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Exhibit G-2

Exhibit E

ACLU AMERICAN CIVIL LIBERTIES UNION FOUNDATION

SPLC FLORIDA

Florida Department of Law Enforcement
c/o Chief of Domestic Security
Agency Clerk
PO Box 1489
Tallahassee, FL 32302-1489

Re: Objection to Designation of CAIR and CAIR-Florida as "Domestic Terrorist Organizations" Under Fla. Stat. § 943.03102

On September 18, 2026, CAIR and CAIR-Florida received from the Florida Department of Law Enforcement a "Notice of Intent of Designating Council on American-Islamic Relations (CAIR), including CAIR-Florida, as a Florida Domestic Terrorist Organization."[1] The Notice of Intent alleges that CAIR and CAIR-Florida are "engaging in terrorist activity" and represent "an ongoing threat to the security" of Florida or the United States. These stigmatizing state allegations are false. CAIR and CAIR-Florida reject the allegations categorically.

CAIR and its chapter CAIR-Florida are nonprofit civil rights organizations engaged in First Amendment-protected speech and advocacy. Their shared mission, rooted in faith, is to help people understand Islam, protect civil rights, promote justice, and empower American Muslims. CAIR and CAIR-Florida work daily to accomplish this goal. Like other U.S. nonprofit rights groups across the country, they hold community events, publish know-your-rights and other educational material, advocate for and against government policies, petition elected officials, and provide people with legal advice and representation. They have done this work for decades. Neither CAIR nor CAIR-Florida has ever been charged with, much less convicted of, any crime.

Yet Florida officials' Notice of Intent shockingly brands the country's leading Muslim civil rights group with an undeserved and reviled "terrorism" label. It does so by stitching together innuendo and chains of attenuated association—including often decades-old alleged speech or actions of groups and individuals that are not CAIR.[2] It provides no evidence—nor

[1] The Notice of Intent was issued pursuant to Florida's new "domestic terrorist organization" designation regime ("DTO regime"), enacted by HB 1471 and HB 1473, which went into effect on July 1, 2026. *See, e.g.*, Fla. Stat. § 943.03102; Fla. Admin. Code Emergency R. 11RER26-8.

As a threshold matter, the designation is invalid because the emergency rule itself is invalid: it does not contain the "specific facts and reasons for finding an immediate danger to the public health, safety, or welfare," as required under Florida law for emergency rulemaking. Fla. Stat. § 120.54(4)(a)(3). Although Florida law requires findings justifying an emergency rule, Rule 11RER26-8 merely asserts three cursory and conclusory sentences apparently cribbed from a White House strategy document. The asserted reason for concluding the emergency rule is fair is similarly flawed and conclusory, providing no analysis whatsoever and repeating language from the Florida Administrative Procedures Act instead of meeting its requirements.

[2] Bafflingly, the Notice of Intent is stamped "Unclassified," as if Florida officials had intelligence classification authority that is, in fact, reserved for the federal executive branch. Exec. Order No. 13,526,

could it—that CAIR is engaging in any violent conduct or act dangerous to human life, which is a predicate under Florida law for "domestic terrorist organization" ("DTO") designation. And although the Notice asserts that officials intend also to designate CAIR-Florida, it alleges no facts and provides no evidence specific to CAIR-Florida whatsoever. Florida officials' use of their new DTO regime to force CAIR and CAIR-Florida to shut down their activities in the state by imposing draconian criminal penalties on the nonprofits, their staff, and those who associate with them based on the pitifully inadequate "record" attached to the Notice of Intent is not only unconstitutional—it is disgraceful.

This Notice of Intent—and the existential jeopardy it creates for CAIR and CAIR-Florida—must be understood in the context of Governor DeSantis and top Florida officials' relentless campaign against the nonprofits' First Amendment-protected speech and advocacy.

Governor DeSantis and the Florida Department of Law Enforcement (FDLE) are well aware of CAIR and CAIR-Florida's civil rights activities—as demonstrated by the fact that the Governor's hostility to those activities has been public and persistent. That hostility ratcheted up on December 8, 2025, when the Governor unilaterally issued an Executive Order purporting to designate CAIR as a "terrorist organization," as defined in Fla. Stat. § 874.03, and imposing sweeping consequences on CAIR and those who had provided it "material support." That Executive Order provided no evidence of any criminal conduct by CAIR or CAIR-Florida. A federal district court already held the Governor's executive action is likely unconstitutional. *CAIR-Found., Inc. v. DeSantis*, 822 F. Supp. 3d 1263 (N.D. Fla. 2026).

On April 6, 2026—after Governor DeSantis's Executive Order was preliminarily enjoined as unconstitutional—he signed HB 1471 and HB 1473 into law, establishing the DTO regime. Legislators who supported the bills made clear that, in creating the regime, they intended to endorse Governor DeSantis's actions and Executive Order targeting CAIR while adding a veneer of process and even harsher punishments.[3]

When the DTO regime went into effect on July 1, 2026, Governor DeSantis and other officials immediately announced their determination to designate CAIR as quickly as possible. After CAIR and CAIR-Florida sued the same day to enjoin a baseless and unconstitutional designation, Florida officials paused their process, later issuing an emergency rule to implement the DTO regime's broad terms. Under the DTO regime and the emergency rule interpreting and implementing it, the Notice of Intent swiftly followed.

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§ 1.3, 3 C.F.R. 13526 (Jan. 1, 2010). To be clear: Governor DeSantis and other state officials have no information classification authority.

[3] *Fla. S. Judiciary Comm.*, 1:25:08–25:25 (Feb. 3, 2026) (statement of Sen. Grall), https://www.flsenate.gov/media/VideoPlayer/6080; *Fla. H. Judiciary Comm.*, 2:28:55–29:16 (Feb. 26, 2026) (statement of Rep. Cassel) https://www.flhouse.gov/VideoPlayer.aspx?eventID=11180; *Fla. S. Session*, 3:26:43–27:04 (Mar. 5, 2026) (statement of Sen. Grall), https://www.flsenate.gov/media/VideoPlayer/6273.

There should be no doubt that Governor DeSantis and the rest of the Florida Cabinet intend to vote to designate CAIR and CAIR-Florida. The "process" the DTO regime purports to provide—which allows five executive officers to serve as CAIR and CAIR-Florida's judge, jury, and executioner—is nonexistent. CAIR and CAIR-Florida are not being given a meaningful opportunity to be heard or a fair forum to vindicate their rights before they are designated and effectively shut down by the breathtaking criminal penalties imposed under the DTO regime. This violates fundamental due process. The regime also violates the First Amendment by allowing the state to target and suppress the speech of those, like CAIR and CAIR-Florida, whom state officials disfavor.

CAIR's and CAIR-Florida's filings in their two ongoing lawsuits challenging Governor DeSantis and other Florida officials' unconstitutional designation efforts—*CAIR-Foundation, Inc. v. DeSantis* (*CAIR I*), No. 4:25-cv-516-MW/MJF (N.D. Fla. *filed* Dec. 15, 2025) (executive order challenge), and *CAIR-Foundation, Inc. v. DeSantis* (*CAIR II*), No. 4:26-cv-315 (N.D. Fla. *filed* July 1, 2026) (DTO regime challenge)—extensively detail their responses to state officials' campaign of meritless accusations. CAIR and CAIR-Florida attach key filings and reports in these lawsuits as exhibits here and will not restate all of those responses.[4] They are also cognizant that this fundamentally unfair DTO regime process, in which a decision against them is virtually guaranteed, exposes the nonprofits, their Florida staff and board members, and associated third parties to an imminent risk of criminal punishment, including felony prosecution with penalties of up to lifetime imprisonment. Nevertheless, CAIR and CAIR-Florida briefly make the following points concerning the Notice of Intent, which states that it is a "summary" of "findings."

The Notice of Intent entirely fails to identify any "terrorist activity" in which CAIR and CAIR-Florida are supposedly engaged. Put another way, it does not even come close to establishing the first prong of the definition of "terrorist activity" required by Florida law: a "violent act or an act dangerous to human life which is a violation of the criminal laws of" Florida or of the United States.[5] The Notice contains no allegation or evidence identifying a single violent or dangerous act by CAIR or CAIR-Florida; it similarly fails to identify any criminal law any such act supposedly violates. That is no surprise: as CAIR and CAIR-Florida

[4] Compl., *CAIR II*, ECF No. 1; Decl. of Edward Mitchell, *CAIR II*, ECF No, 19-1; Decl. of Wilfredo Ruiz, *CAIR II*, ECF No. 19-2; Pls.' Expert Report of Jason Blazakis in *CAIR I* (served May 29, 2026) ("Blazakis Report"); Pls.' Expert Rebuttal Report of Jason Blazakis in *CAIR I* (served June 26, 2026) ("Blazakis Rebuttal Report").

[5] Under the statutory definition of "terrorist activity," a violation of the Florida Computer Crimes Act, Fla. Stat. § 815.06, which prohibits certain hacking crimes, need not be violent or dangerous to human life if it otherwise satisfies the statutory criteria for the term. The Notice does not allege any facts suggesting that CAIR or CAIR-Florida have violated the Florida Computer Crimes Act and it does not appear to be at issue here.

have each repeatedly publicly said, they condemn terrorism and are not engaged in terrorist activity at all.

Likewise, the Notice fails to identify any concrete way in which CAIR or CAIR-Florida constitutes an "ongoing threat to the security" of the state or nation. Again, that is only to be expected: neither CAIR nor CAIR-Florida poses a security threat to Florida or the United States—the very notion is absurd. Nor does the Notice explain how Florida officials reached the conclusion that any unlawful act—again, none is identified—could meet the remaining statutory prongs, i.e., that it was intended to intimidate, injure, or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of government through murder, assassination, or other violent methods. This Notice of Intent would be laughable if its consequences for the constitutional rights of two American nonprofits and their stakeholders—employees, board members, volunteers, allies, and community members—were not so dire.

Much of the purported "evidence" in the Notice is decades old, and the Notice's slippery use of the present tense to tie CAIR to the past activities of others cannot disguise how stale and irrelevant it is. For example, the Notice repeatedly alleges attenuated "ties" between CAIR and an individual who was convicted of providing material support to a federally-designated terrorist organizations years ago in the Holy Land Foundation case—Ghassan Elashi—yet it does not identify any CAIR conduct involving Mr. Elashi (or any other individual or group named in the Notice) that could meet the statutory criteria for "terrorist activity." Moreover, Mr. Elashi has not been associated with CAIR for over two decades. The Notice does not attempt to explain how these alleged "ties" to Mr. Elashi (or any other named individual or group) amount to terrorist activity, what statute they violate, or how they create an "ongoing" threat to the security of the state or country. It likewise fails to account for the fact that neither CAIR nor CAIR-Florida has ever been charged with or convicted of a crime.

The Notice relies on allegations going back to 1993—before CAIR's predecessor was founded—and the 2008 Holy Land Foundation case, asserting these indicate a connection to Hamas. As CAIR and CAIR-Florida's expert, Jason Blazakis, a former State Department official responsible for federal terrorism related designations has explained, stale allegations like these pre-date CAIR's incorporation or do not name CAIR, and document no criminal act by CAIR.[6]

Mr. Blazakis's experience in these matters is perhaps unparalleled. Over the course of his ten years of public service, he led efforts to designate multiple Hamas officials under the federal terrorist designation regime, explaining that "[a]t no time was the State Department's use of the federal designation authority . . . more aggressive in pursuing Hamas actors than under my direction."[7] Thus, the inadequacy of the Notice and the fallacies it advances may best be refuted by Mr. Blazakis's direct knowledge and experience: "Had credible, articulable evidence existed

[6] Blazakis Report at 16–17 (¶¶ 29–30); Blazakis Rebuttal Report at 7–10 (¶¶ 16–23).

[7] Blazakis Rebuttal Report at 11 (¶ 27).

linking CAIR to Hamas financing, material support, or organizational coordination, that evidence would have been available to us and would have been actionable. It was not. The absence of such information across multiple decades of State Department Hamas designation activity, spanning administrations of both parties and comprehensive foreign terrorist organization reviews, is not a gap in the record. It is the record."[8]

In sum, nothing in the Notice of Intent meets the definition of "terrorist activity" under Florida law. Rather, the Notice demonstrates that Florida officials will not be deterred in targeting CAIR and CAIR-Florida in violation of their constitutional rights. CAIR and CAIR-Florida look forward to vindicating their constitutional rights in federal court.

September 25, 2026

Sincerely,

/s/ Hina Shamsi

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[8] Blazakis Rebuttal Report at 13 (¶ 33).

ACLU
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Exhibit G-2-1

Exhibit 4

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

CAIR-FOUNDATION, INC. and
CAIR-FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:25-cv-00516-MW-MJF

RONALD DESANTIS, in his official capacity as Governor, State of Florida,

Defendant.

PLAINTIFFS' EXPERT REPORT OF JASON BLAZAKIS

I. Introduction

Qualifications and Background

1. My name is Jason Blazakis. I am a Professor of the Practice at the Middlebury Institute of International Studies, where I also serve as the Executive Director of the Center on Terrorism, Extremism, and Counterterrorism. Prior to joining the Middlebury Institute in the summer of 2018, I served for more than a decade as the Director of the Office of Counterterrorism Finance and Designations within the U.S. Department of State's Counterterrorism Bureau (CT/CTFD). In that role, I led a team responsible for identifying, evaluating, and recommending whether to designate organizations or individuals as terrorists under the federal designation and sanctions framework. I have more than 25 years of experience in the counterterrorism, foreign policy, threat finance, sanctions, proliferation financing, and intelligence fields.[1] My professional background and qualifications, together with publications, are also set forth in my Curriculum Vitae, attached as **Exhibit A**. I am being paid $300 an hour for my work in this case, plus any travel expenses.

2. The Office of Counterterrorism Finance and Designations at the Counterterrorism Bureau was the State Department component with primary responsibility for evaluating and recommending designations of groups as Foreign Terrorist Organizations (FTOs) under Section 219 of the Immigration and Nationality Act (INA), 8 U.S.C. § 1189. The office also led the evaluation and recommendation process for designations of entities and individuals as Specially Designated Global Terrorists (SDGTs) under Executive Order 13224, an authority that assigns designation

[1] The views expressed in this submission are solely those of the author and do not represent the views of the Middlebury Institute of International Studies, the Center on Terrorism, Extremism, and Counterterrorism, or any other institutions with which I am affiliated.

responsibilities to the Secretary of State and the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of Homeland Security.[2]

3. From early 2008 until July 2018, I estimate that I reviewed several hundred State Department and Treasury Department designation proposals. The vast majority of those proposals resulted in a designation. Over more than ten years of leading this work, however, there were also many occasions on which my office set a proposed designation aside because we did not have evidence sufficient to meet the legal requirements, or because we did not have intelligence reporting that we judged credible enough to support a designation. Those negative decisions were as much a part of the work as the affirmative recommendations. The federal designations description that follows reflects my own experience as Director of the Office of Counterterrorism Finance and Designations between 2008 and 2018, and the practices that prevailed during that period.

4. The team that performed this work was made up of professionals with substantial subject-matter expertise. Senior Office of Counterterrorism Finance and Designation analysts during my tenure typically held graduate degrees in relevant fields such as international relations, foreign regional studies, or law, and most had between five and twenty years of prior Office of Counterterrorism Finance and Designations within the U.S. Department of State's Counterterrorism Bureau in the U.S. government, the intelligence community, or specialized research institutions (such as think tanks) before joining the office. All held Top Secret/Sensitive Compartmented Information clearances and were trained to evaluate human-intelligence and signals-intelligence reporting, with particular attention to source credibility, source proximity to the underlying information, and the reporting record of individual sources over time. Our counterparts at the

[2] Throughout this submission, I use the terms entity, organization, and person, consistent with how those terms are used in the federal designation statutes and Executive Order 13224.

Department of the Treasury's Office of Foreign Assets Control (OFAC) and the Department of Justice's National Security Division included similarly experienced analysts and lawyers, many of whom had spent the majority of their careers working on terrorism designations or related sanctions matters. The interagency review process I describe below relied on that combined expertise at every stage. Today, I am a professor of the practice and have engaged with professionals in an academic context. I will say—squarely—the people I worked with as director of the Office of Counterterrorism Finance and Designations are among the very best professionals I've had the privilege to work with.

Summary of Opinions

5. Plaintiffs' counsel have asked me to provide my opinion about Governor DeSantis's process and justifications for designation of CAIR as a "terrorist organization" in light of my experience leading designations under the federal terrorism sanctions regimes.

6. Federal terrorism designation is a serious instrument. The designation criteria require findings of *conduct*—terrorist activity, or, in the case of SDGT designation, conduct meeting the standards set forth in Executive Order 13224—and not findings of ideology, religious affiliation, advocacy, or association alone. Designation under either FTO or SDGT authority carries severe legal consequences. A designated entity loses access to the U.S. financial system. Persons who provide material support to a designated foreign group, or for specific federal terrorism-related crimes, can face substantial prison sentences and civil penalties. Aliens associated with designated foreign groups are inadmissible to the United States.

7. The deliberative nature of the process my office and our interagency partners maintained reflects the gravity of those consequences. As I describe below, the federal designation process during my tenure was structured around three reinforcing requirements: a high evidentiary

threshold tied to conduct, an interagency review designed to surface operational and intelligence concerns before a designation was issued, and a layered legal review designed to ensure that the underlying record could withstand scrutiny by an Article III court. Each of those requirements served a distinct purpose: ensuring that designations were operationally sound and intelligence-driven, ensuring that they were legally defensible, and ensuring that they preserved the credibility of the designation regime itself.

8. During my tenure, the prospect of designating a U.S. person—whether an individual U.S. citizen or a U.S.-incorporated entity—was treated with substantially greater caution than the designation of a foreign person. There were two reasons for that caution.

9. First, U.S. persons retain constitutional rights, including under the First, Fourth, and Fifth Amendments, that the federal designation regime must accommodate. Federal courts have made clear that the procedural shortcuts the executive branch may take with respect to wholly foreign actors are unavailable when U.S. persons are involved. For example, in *Kindhearts for Charitable Humanitarian Development, Inc. v. Geithner* and *Al Haramain Islamic Foundation, Inc. v. U.S. Department of the Treasury*, federal courts held that the SDGT regime as applied to U.S. nonprofit organizations failed to satisfy the Fourth and Fifth Amendments in important respects. The constitutional violations included blocking assets pending investigation without a warrant supported by probable cause, and failing to provide the affected organization with adequate notice of the basis for action and a meaningful opportunity to respond before a neutral decisionmaker.[3] Those decisions were known to government lawyers and analysts working on

[3] *Kindhearts for Charitable Humanitarian Dev., Inc. v. Geithner*, 647 F. Supp. 2d 857 (N.D. Ohio 2009); *Al Haramain Islamic Found., Inc. v. U.S. Dep't of Treasury*, 686 F.3d 965 (9th Cir. 2012).

designations during my tenure, and they shaped the procedural care taken when a U.S. person was even potentially within the scope of a proposed designation.

10. Second, in my experience, the universe of U.S. persons engaged in conduct rising to the threshold required for designation has been very small, and the universe of U.S.-incorporated nonprofit organizations engaged in such conduct has been smaller still. Executive Order 13224, the operative authority for SDGT designations, may authorize the designation of U.S.-based entities in limited circumstances. In my experience, those U.S.-person authorities were exercised sparingly and always against entities with a documented operational nexus to a foreign designated organization, rather than as freestanding instruments to designate domestic civil-society groups. Throughout my tenure, State and Treasury Department application of Executive Order 13224 always required a predicate evidentiary finding tied to specific wrongful conduct and did not provide a procedural shortcut around the heightened evidentiary expectations that apply to U.S. persons.[4] Over my decade as Director, no SDGT designation of a U.S.-incorporated nonprofit organization was ever recommended out of my office.

11. Another preliminary point is worth emphasizing. Judicial review of federal designations is meant to be meaningful and is a feature of the system rather than an afterthought. SDGT designations under Executive Order 13224 are reviewable in U.S. district court under the Administrative Procedure Act, and FTO designations under 8 U.S.C. § 1189 are reviewable in the U.S. Court of Appeals for the District of Columbia Circuit on the basis of the administrative record compiled by the Secretary of State. The rigor I describe below is calibrated in part to that judicial

[4] While Executive Order 13224 was amended in September 2019 by Executive Order 13886, those amendments did not relax the underlying evidentiary requirements I describe in this submission. Executive Order 13224, as amended, remains the operative SDGT authority today, and the predicate findings it requires continue to demand a rigorous conduct-based, primary-source administrative record that the federal designation process was built to produce.

review, but it is not driven by it. The same rigor served operational, intelligence, and institutional-credibility purposes that I will return to throughout this submission.

12. For the reasons set forth below, Governor DeSantis's Executive Order lacks any of the criteria or procedural protections required for a sound, credible, and lawful terrorism designation. The Executive Order's procedural architecture lacks carefully calibrated protections to guard against the grave consequences of applying the terrorism label to a U.S. nonprofit. The Governor has not relied upon the type, quality, or rigor of evidence that the federal designation regime required during my tenure. The evidence the Governor has relied on is grossly insufficient to justify the designation. When these fundamental safeguards are abandoned, terrorism designation becomes an instrument of harsh political pressure and punishment rather than a defensible finding based on lawful criteria and fact. Even worse, an unfounded terrorism designation can spell the demise of a lawful organization, subjecting it and those who associate with it to crippling reputational and financial loss, among other harms.

II. The Federal Process for Designating Terrorist Entities

13. In the section that follows, I describe the process used by the State Department from 2008 through 2018 to designate Foreign Terrorist Organizations under 8 U.S.C. § 1189. With a few exceptions, one of which I will address below, all of the State Department's FTO and Executive Order 13224 designations during my tenure were initiated by an analyst with relevant subject-matter expertise. The process for SDGT designations under Executive Order 13224 paralleled the FTO process in most material respects, with certain important differences that I describe in a separate subsection at the end of this section.

14. **First—Identification.** Although my office pursued third-party designation requests originating from other U.S. government agencies, and on occasion from foreign government

counterparts, the vast majority of designations during my tenure originated from my office's own careful review of credible reporting and reliable information. An analyst on my team, or, in some cases, I myself, would identify a candidate group through review of classified intelligence reporting—including human-intelligence and signals-intelligence reporting—or, less commonly, through review of credible open-source information, such as confirmed claims of responsibility for violence published in established newspapers of record. What mattered at this stage was that the driver of the inquiry was the prohibited conduct of a group being considered for designation, the threat the group posed, and the strength of the underlying reporting. The driver was never the political profile of the group, the religion or ideology of its members, or the policy preferences of any particular administration.

15. **Second—Interagency Equity Check.** Once an analyst identified a candidate group, my office prepared a brief *equity check* document, typically one to two pages in length, summarizing the basis for considering the group for designation. The document drew on the available classified reporting and credible primary-source open-source information, and described the group's identity, wrongful conduct, structure, and the threat it posed. The equity check was then transmitted from my office, on my authority, to designated recipients across the U.S. government's national-security apparatus. The transmission was carried over a federal system designed to handle Top Secret information.[5] The recipients included subject-matter experts at the Central Intelligence Agency and other elements of the federal Intelligence Community, the Federal Bureau of Investigation, the National Security Council staff, the relevant policy bureaus at the Department of State, the Department of the Treasury, the Department of Defense, the Department of Homeland

[5] The information was transmitted over the Joint Worldwide Intelligence Communications System (JWICS), a federal system designed to handle information classified at the Top Secret/Sensitive Compartmented Information level.

Security, and the U.S. Agency for International Development, among others. The purpose of the equity check was twofold. It ensured that a proposed designation was operationally and legally sound from the outset, and it surfaced any objections or concerns from across the government before the more substantial work of compiling an administrative record was undertaken. Geographic policy bureaus at the State Department, in particular, often raised on-the-ground considerations, including objections grounded in diplomatic equities, ongoing operations, or country-specific intelligence sensitivities. Recipients had two weeks to evaluate the proposal. If no objections were received within that window, the Office of Counterterrorism Finance and Designations moved to the next step. If objections were received, the process paused for further review and, in some cases, for resolution at higher levels of the interagency review and consultation process. This was the most common stage at which a proposed designation was deferred or set aside. The consultation process provides an avenue for agencies to express concern to the agency proposing the designation. It is often a back-and-forth process where information is shared between agencies that allow for an informed decision to move forward.

16. **Third—Compilation of the Administrative Record.** Once the equity check process concluded without objection, an Office of Counterterrorism Finance and Designations analyst was assigned to compile the administrative record—the underlying legal and evidentiary basis for the designation. This was the most labor-intensive phase of the process. Compilation typically took several months, and in more complex cases substantially longer. The administrative record served two purposes. First, it documented the executive branch's evidentiary basis for concluding that the candidate group satisfied each of the statutory criteria. Second, it provided the record on which any subsequent judicial review would proceed. Both purposes, the executive branch's own need

for accuracy and reliability, and the need to construct a record capable of withstanding judicial scrutiny, disciplined the work.

17. The administrative record addressed each of the three statutory criteria for FTO designation: that the group is *foreign*; that the group engages in *terrorist activity or terrorism* within the meaning of the INA; and that the group's terrorist activity or terrorism *threatens the security of United States nationals or the national security of the United States*, which in practice is shown through evidence that the group threatens U.S. foreign-policy, defense, or economic interests. The first criterion, foreignness, is significant for the issues addressed in this submission. By statute, the State Department can only designate as an FTO a group that is not a U.S. entity. As of the date of this submission, no domestic group has ever been placed on the State Department's FTO list.

18. Each assertion in the administrative record relevant to a statutory criterion was supported by a citation to an *exhibit*, which is the term our office used for the underlying source document supporting that assertion. Exhibits were drawn primarily from classified intelligence reporting and from primary-source unclassified information. Our office's general principles for sourcing the administrative record can be summarized as follows. Primary sources were strongly preferred over secondary sources. Open-source material was used only where it was first-hand and credible, such as a verified claim of responsibility published in an established newspaper of record, or video evidence in which the leader of a group took responsibility for an attack on an authenticated platform. In my experience, unclassified primary-source material was almost always required to be corroborated by classified intelligence reporting from the U.S. Intelligence Community before being relied upon as a basis for designation, and that corroborating reporting was itself cited in the record. We did not rely on secondary sources, academic monographs, policy reports,

or finished intelligence products[6] as the evidentiary backbone of the record. At most, secondary materials provided contextual background, and even in that limited role they were subject to credibility review and were given little or no weight if they could not be reliably sourced.

19. A brief illustration may be useful. Suppose an administrative record needed to establish that a candidate group operated a training facility in a foreign country and was preparing an attack on a U.S. diplomatic facility. A typical exhibit drawn from CIA reporting might be characterized in the administrative record by reference to the source's reporting record, proximity to the information, and credibility—for example, by noting that the source had a multi-year reporting record and direct first-hand access to the underlying information. The substance of the reporting would then be summarized, with attention to specificity: the name and location of the facility, the nature of the training, the identity of the target. That description would allow the analyst, the agency lawyers, and ultimately a reviewing court to evaluate the strength of the underlying source. Federal intelligence agencies maintain their own internal tradecraft for evaluating sources before reporting is disseminated, and Office of Counterterrorism Finance and Designations analysts and agency lawyers were trained to read source descriptors with attention to that tradecraft.[7] The same exhibit, drawn from a single piece of CIA reporting, could in this hypothetical contribute to all three statutory prongs: foreignness, in that the facility is overseas; terrorist activity, in that the

[6] Finished intelligence products are themselves analyses prepared from underlying source reporting. CT/CTFD relied on the underlying primary-source reporting rather than the finished product, because the analysts in my office, working with agency lawyers, needed to evaluate the credibility, recency, and proximity of the original source directly, rather than rely on another analyst's interpretive judgment about it.

[7] The reliability of CIA reporting depends not only on the proximity and track record of the human source but also on the source-evaluation tradecraft applied by the collecting officer, which is itself an institutional practice subject to internal review. CT/CTFD analysts were trained to read those source descriptors with attention to that tradecraft, and agency lawyers reviewing the administrative record applied the same scrutiny.

group is preparing an attack; and threat to U.S. interests, in that the target is a U.S. diplomatic facility.

20. Administrative records are not short. In my experience they were routinely several hundred pages in length, and the compilation process was iterative. Office of Counterterrorism Finance and Designations analysts revised drafts in response to internal review, additional reporting, and the application of source-credibility judgments. The length and labor reflected the gravity of the underlying decision: each citation, each exhibit, and each judgment about the weight of a particular piece of reporting was made with the understanding that the final record would be reviewed not only by lawyers across multiple federal agencies, but also, in the event of judicial challenge, by a federal court.

21. **Fourth—Interagency Legal Review.** Once the analyst had completed a working draft of the administrative record, the Office of Counterterrorism Finance and Designations transmitted the record to lawyers at the State Department's Office of the Legal Adviser, the Department of Justice's National Security Division, and the Department of the Treasury (OFAC). The interagency lawyers reviewed the substance of the record and every exhibit. This phase routinely took several months, and in more complex cases more than a year. Lawyers reviewing the record were attentive both to the Executive Branch's own need for accuracy and reliability and to the prospect of judicial review. In my experience, the legal review was often iterative: lawyers raised questions about specific exhibits, asked for additional corroboration, or pressed the analyst to address potential weaknesses in the reasoning chain. That iterative process reflected the seriousness with which the Executive Branch treated the designation decision.

22. **Fifth—Action Memo and Federal Register Notice.** Once legal review was complete, the Office of Counterterrorism Finance and Designations assembled the final package of

decisional documents, which included an action memo to the Secretary of State, a draft Federal Register notice, and the administrative record. The action memo was a relatively short document summarizing the basis for the proposed designation and seeking the Secretary's decision. It included a line on which the Secretary indicated whether to approve or reject the proposed designation. If the Secretary approved, the Secretary signed the Federal Register notice, which is a statutory prerequisite for an FTO designation.

23. **Sixth—Congressional Notification.** Federal law requires the State Department to provide Congress at least seven days' advance classified notice of an FTO designation. During my tenure that notification was made through classified correspondence to designated leadership and committees of jurisdiction in the Senate and the House. The advance-notice requirement reflects an important element of legislative oversight. It allows members of Congress with national-security and foreign-policy responsibilities, and their professionally cleared staff, to review the designation determination before it takes legal effect. That review is itself a meaningful check on executive-branch designation authority.

24. **Seventh—Public Announcement.** Once the seven-day notification window elapsed, the State Department announced the designation publicly. Public announcements served two purposes. It put the designated entity on notice of the action against it, allowing it to invoke whatever procedural rights it had under the governing statute, including the right to seek judicial review. And it put the public on notice of the basis for the action, which is essential to the credibility of the designation system as an instrument of public policy. The public announcement consisted of three coordinated steps: publication of the Federal Register notice, an update to the Treasury Department's Specially Designated Nationals (SDN) list (which includes all groups and individuals subject to designations or other sanctions) to add the relevant identifiers, and a State

Department media note. To accomplish the SDN update, I sent Treasury's Office of Foreign Assets Control's director a short memorandum identifying the bio-identifiers to be added. Inclusion on the SDN list is the operative trigger for the financial-system consequences of designation: U.S. financial institutions screen against the SDN list, and a designated entity loses access to the U.S. formal financial system as a direct consequence of being added. The State Department coordinated the publication of the Federal Register notice, the SDN list update, and the media note as closely as possible in time.

Specially Designated Global Terrorist designations under Executive Order 13224.

25. The process I have just described tracks the FTO designation process. SDGT designations under Executive Order 13224 followed a closely analogous process, with certain differences that are worth identifying. First, designation authority under Executive Order 13224 is held by the Secretary of State and the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of Homeland Security. Designations originating from my State Department office followed essentially the same equity-check, administrative-record, and legal-review steps described above, but Treasury Department lawyers played a central role in legal review, and Treasury's Office of Foreign Assets Control played the operational role in implementing the designation through the SDN list. Second, the substantive criteria differ: Executive Order 13224 reaches a somewhat broader set of conduct than the statutory FTO criteria, including conduct supporting acts of terrorism or persons who commit acts of terrorism. Third, SDGT designations are not subject to the seven-day congressional pre-notification requirement that applies to FTO designations under § 1189(d), although Congress is regularly notified of SDGT actions through other channels. Fourth, judicial review of an SDGT designation lies initially in the U.S. district court rather than in the D.C. Circuit. And fifth, Treasury Department Office of Foreign Assets Control administers

a more developed reconsideration and licensing regime than the State Department maintains for FTOs, including the procedures set forth in 31 C.F.R. Part 501. These differences matter for the comparative analysis below, because the procedural protections that apply at the federal level—even those, like the SDGT regime's, that federal courts have already found constitutionally inadequate as applied to U.S. nonprofits—are substantially more robust than anything the Florida Executive Order against CAIR provides.

26. The federal designation process I have described was deliberative and time-intensive. It was, in my experience, the most rigorous designation process I have encountered, including in comparison with the analogous processes maintained by allied governments. It was and is not perfect. It can be slow—intentionally so to ensure accuracy, verification, and credibility. The standard we used for designation, a reasonable basis to conclude that the statutory criteria are met, is not the standard that applies to a criminal prosecution; it was not intended to be, and we were aware that as applied to U.S. entities, at least, the standard could raise constitutional concerns. But the process was built around procedural and evidentiary disciplines that, taken together, were designed to ensure that designations are accurate, defensible, and credible. Those are the disciplines I now compare to the process used by the Governor of Florida in his Executive Order designating CAIR a terrorist organization.

III. The Florida Executive Order Is Lacking Procedural Safeguards

27. Under applicable federal law and throughout my time in practice, the federal designation regime contained procedural protections that the Florida Executive Order does not contain. Section 219 of the INA entitles a designated organization to seek judicial review of the Secretary of State's designation in the D.C. Circuit on the basis of an administrative record that the Secretary compiled, that includes both classified and unclassified material, and that is subject to

review by an Article III court. Designations under Executive Order 13224 are subject to reconsideration procedures under 31 C.F.R. Part 501 and to judicial review under the APA, with the executive branch obligated to furnish the designated party with an unclassified evidentiary summary and an opportunity to submit rebuttal information. These provisions are separate from any constitutional challenges that may be raised.

28. The Governor's Executive Order designating CAIR provides none of this. There is no administrative record. There is no reconsideration mechanism. There is no statement of reasons or evidence or even an unclassified summary furnished to the affected party. There is no opportunity for the affected party to be heard before the designation issues. There is no court that has been provided a record to review at the time of the designation. The affected party learns of the designation in the same way the public does: from a press release. As I noted in Section I, federal courts have already held that even the federal SDGT regime, which provides at least the unclassified-summary procedure and the post-deprivation reconsideration mechanism just described, failed to satisfy the Fourth and Fifth Amendments as applied to U.S. nonprofit organizations. The Florida Executive Order, which provides none of those protections, does not even reach the procedural floor that federal courts have already found constitutionally inadequate.

29. The evidentiary predicates the Governor has cited are also weaker than the Executive Order suggests.

30. The Governor has relied substantially on the naming of CAIR on a list of 246 groups and individuals labelled as unindicted co-conspirators in the 2008 Holy Land Foundation (HLF) prosecution. But the unindicted-co-conspirator mechanism is not an adjudication of guilt. It is an evidentiary predicate under Federal Rule of Evidence 801(d)(2)(E) for potential admission of statements against indicted defendants. The public listing was, by the Department of Justice's

own characterization to the Fifth Circuit, an unfortunate oversight: the list was supposed to have been filed under seal. In 2010, the Fifth Circuit noted a federal district court's finding that the public filing of that list violated the Fifth Amendment due-process rights of the named organizations, subjecting them to the loss of reputation without being afforded a forum in which to contest their listing.[8] Moreover, the listing of CAIR in the Holy Land Foundation case is more than 17 years old and the underlying information in that case is even older. A stale document that the federal district court and Fifth Circuit held had been improperly disseminated in violation of due process is, in my professional judgment, an exceptionally thin basis on which to ground a state-level terrorism designation in 2025 or 2026. It is, instead, more telling that CAIR has never been indicted, never been charged, never been convicted—then or since.

31. The Governor's own discovery campaign in this litigation reveals the depth of the evidentiary gap. On April 17, 2026, the Governor served three discovery instruments on CAIR: interrogatories, requests for admission, and requests for production. Together, they seek CAIR's donor records from foreign sources dating to 1993, every communication since 1993 touching on a wide range of subjects related to the conflict in the Middle East, every foreign or foreign-funded trip taken by any executive since 2023, and every communication between CAIR and a sprawling list of foreign entities and individuals including purported donors in Qatar, Kuwait, the United Arab Emirates, and Saudi Arabia. The requests reach back more than three decades, substantially predating the Executive Order itself.

32. In the federal system in which I worked, the administrative record is compiled *before* the designation issues. The record is the basis for the designation, not its product. A federal terrorism designation that issued first and then attempted, through litigation discovery, to assemble

[8] *United States v. Holy Land Found. for Relief & Dev.*, 624 F.3d 685, 688 (5th Cir. 2010).

the evidentiary record that should have preceded it would have been recognized at every stage of the interagency process I have described—the equity-check, the analyst's compilation of the administrative record, the lawyers' review, the action memo to the Secretary—as procedurally and substantively defective. It would never have been permitted. The federal designation architecture was built, over decades and across administrations, precisely to ensure that the gravity of the official terrorism label followed after a substantiated and credible evidentiary record rather than asserting the authority to demand or create one. The Governor's Executive Order approach inverts that sequencing. The Executive Order labels CAIR a terrorist organization first, and the Governor now tries, through attempted discovery into three decades of a nonprofit's records, to substantiate the label retroactively.

33. That inversion is not a minor procedural irregularity. It is a fundamental departure from the design of the federal designation system that I knew and implemented. A designation regime in which the label precedes the record is not a designation regime as I understand and have practiced that term. It is, instead, a mechanism that relies on the consequences of the label—third-party disassociation, financial pressure, reputational harm—to conjure up an evidentiary basis the Governor did not possess at the moment the label was affixed. None of the procedural and evidentiary disciplines I described in Section II is present here.

IV. The Evidence Cited by the Governor is Insufficient

34. In examining the materials[9] relied upon by the Governor of Florida to justify the designation of the Council on American-Islamic Relations as a terrorist organization, I have concluded that the Governor has not relied upon the type, quality, or rigor of evidence that the federal

[9] Declaration of Jay K. Arnold, Jr., *CAIR-Foundation, Inc. v. DeSantis*, No. 4:25-cv-516-MW-MJF (N.D. Fla. Feb. 11, 2026), Dkt. No. 37-1; Defendants' Responses to Plaintiffs' First Set of Interrogatories (Apr. 22, 2026).

designation framework would require. The materials cited consist primarily of policy reports, academic analyses, and secondary-source compilations. Even setting aside the question whether such materials might have probative value in some other context, they are not of the type that the State Department Office of Counterterrorism Finance and Designations would have relied upon as the evidentiary backbone of a designation administrative record, let alone a record supporting the designation of a U.S.-incorporated nonprofit.

35. The sources referenced include works such as *The Muslim Brotherhood's U.S. Network* by Zeyno Baran, *The Muslim Brotherhood in America: A Brief History* by Lorenzo Vidino, and several publications affiliated with the George Washington University Program on Extremism. These works purport to map historical relationships, ideological affinities, and institutional developments within a broader system of organizations. They do not establish, and they do not purport to establish, that CAIR itself has engaged in terrorist activity, provided material support to terrorism, or operated under the direction or control of a federally designated terrorist organization.

36. This distinction is foundational to the designation work I led. As I described in Section II, the federal designation framework requires that every assertion supporting a designation be grounded in reliable, primary-source evidence, in my experience usually classified intelligence reporting, corroborated credible primary-source open-source reporting, or first-hand documentation, and that the entire record be subject to rigorous interagency legal review. In my experience, secondary materials such as academic studies and policy reports were not relied upon as the evidentiary backbone of an administrative record. They were used, if at all, to provide contextual background, and even in that limited role they were subject to credibility review and given little or no weight where their reliability could not be tested. A determination that an organization is a terrorist entity, with the grave consequences such a determination carries, should, at bare

minimum, rest on a demonstrated factual showing, with specificity, that the organization has engaged in or materially supported *terrorist conduct of a particularly serious nature*: planning, directing, or carrying out attacks; financing, equipping, or providing operational support to those who do; or otherwise meeting the conduct-based designation criteria. The works the Governor relies upon do not make that showing.

37. The materials relied on by the Governor fall short of the federal evidentiary standard in several distinct and important ways.

38. **First, the materials rely heavily on association-based reasoning.** A substantial portion of the Governor's materials turn on alleged historical or ideological connections between CAIR and elements associated with the Muslim Brotherhood. Even if such connections in fact existed—which the materials do not establish in a manner consistent with federal evidentiary discipline—in my experience, mere association has not been a sufficient basis for designation under the federal framework. Throughout my tenure, our application of the federal regime required demonstrable conduct: participation in terrorist acts, facilitation of terrorist operations, or knowing and intentional provision of material support to a federally- designated organization. Association-based designation is particularly dangerous in a U.S. domestic context because it could convert the serious terrorism label into one that reaches advocacy, religious affiliation, and other constitutionally protected activity. In my experience, that is precisely what federal designation policy and practice has been carefully designed to avoid.

39. **Second, the materials do not establish any operational involvement in terrorism.** There is no evidence in any of the materials I have reviewed that CAIR has planned, directed, or carried out terrorist activity. There is no substantiated showing that CAIR has knowingly and intentionally provided financial, logistical, or other material support to a designated terrorist

organization. The absence of operational evidence would, in my experience, be dispositive against designation under the federal framework. My office at the State Department did not recommend designations on records that lacked operational evidence, and the lawyers reviewing those records would not have approved them if it had.

40. **Third, the materials are methodologically unsuited to serve as a legal basis for designation.** They are not evidentiary records. They were not assembled with the intent of meeting any statutory criterion. Their conclusions are interpretive rather than dispositive. They do not include the kind of source-credibility evaluation that I and my colleagues relied upon and required in federal intelligence reporting, and they do not lend themselves to the kind of exhibit-by-exhibit corroboration that a sound and credible administrative record requires. In contrast, throughout my time in federal service, the administrative record was constructed with attention to anticipated judicial review and was therefore built upon verifiable, attributable, and corroborated sources. The materials cited by the Governor were not constructed for that purpose.

41. **Fourth, the Governor's reliance on these materials underscores the absence of evidentiary discipline in the designation.** As I described in Section III, the Governor's Executive Order does not require the creation of an administrative record, does not mandate interagency vetting, and does not define what constitutes sufficient proof. The result is that the Governor made dispositive decisions based on materials that would not have formed the basis for a terrorism designation during my tenure in federal government.

42. **Fifth, several of the cited materials are stale, and others raise independent concerns of bias.** These are two distinct problems and they should be addressed separately. *Staleness* is a problem because the relevant question for any terrorism designation, federal or otherwise, is whether the entity is engaged in qualifying and prohibited conduct now. Reporting from many

years ago, even if it were probative when produced, may have been overtaken by subsequent events, and its evidentiary value diminishes accordingly. The Hudson Institute report by Zeyno Baran dates to 2008, as does the congressional hearing titled *The Muslim Brotherhood's Global Threat*. A subsequent hearing in 2018 covered similar ground but does not contain the kind of contemporary primary-source material that a designation record would require. The Office of Counterterrorism Finance and Designations general practice was to disfavor reliance on stale reporting where more recent corroborating material was unavailable.

43. More recent George Washington University Program on Extremism reports, including those issued in 2024 and 2025, present a related but distinct concern. As a substantive matter, these reports do not contain primary-source documentation of CAIR's involvement in support of terrorism; they assemble interpretive arguments from publicly available materials and prior secondary scholarship. That alone would have sharply limited their evidentiary value in the federal designation context during my tenure. Independent of that substantive limitation, however, these reports raise concerns of *bias*. As an expert in the terrorism designation and sanctions field, I have followed credible reporting in *The New Yorker* and other mainstream outlets which indicates that the Program on Extremism's director, Lorenzo Vidino, entered into a paid contractual relationship in 2018 with a private intelligence firm executing a foreign-government influence operation whose explicit aim was to brand Muslim organizations in certain countries as Muslim Brotherhood fronts.[10] For example, an analytical report produced in that period by Mr. Vidino was used by Austrian police as a basis for Austria's Operation Luxor, a series of raids on Muslim homes. An Austrian appellate court subsequently ruled those raids unlawful. That record raises serious

[10] David D. Kirkpatrick, *The Dirty Secrets of a Smear Campaign*, New Yorker (Mar. 27, 2023), https://www.newyorker.com/magazine/2023/04/03/the-dirty-secrets-of-a-smear-campaign.

concerns about the independence of certain analytical outputs from the Program on Extremism and Mr. Vidino, and would warrant substantial caution in relying on such materials in any designation context.

44. In my time at the Office of Counterterrorism Finance and Designations, I would not have advanced to the Secretary of State a designation record that rested in material part on outputs derived from a documented foreign-influence operation. Doing so, simply put, would have invited a legal risk to the designation and potentially undermined the credibility of the federal terrorist designations regime.

45. **Sixth, the Governor's evidentiary case leans disproportionately on the work of a single scholar.** The Governor relies on two publications by Lorenzo Vidino, including a recent 2025 monograph.[11]

46. In addition to the concern about bias above, reliance on a single author's interpretive framework, however credentialed, is methodologically unsound. The 2025 Vidino monograph illustrates why. I have reviewed the Vidino monograph, which rests on a smattering of historical assertions about associations and ideological lineage, much of which is stale. The monograph does not document terrorist activity, operational planning, or material support to designated terrorist organizations by CAIR. It is not, in other words, the kind of evidentiary work that a federal designation record requires.

47. Sound designation practice requires triangulation across independent governmental, intelligence-community, judicial, and primary-source materials. It does not consist of layering a single analyst's conclusions atop derivative, secondary, and dated citations.

[11] Lorenzo Vidino, *The Muslim Brotherhood in America: A Brief History* (Geo. Wash. Univ. Program on Extremism, July 2025), https://extremism.gwu.edu/muslim-brotherhood-america-brief-history.

48. **Seventh, any invocation of foreign designations as corroboration for the designation of CAIR would be misplaced.** Based on my work in this field, I know that the United Arab Emirates' 2014 listing of CAIR[12] is sometimes invoked as if it conferred substantive validity. It does not. During my tenure, the federal government did not treat another sovereign's terrorist listing as a substitute for the independent statutory and evidentiary processes that govern FTO designations under 8 U.S.C. § 1189 or SDGT designations under Executive Order 13224. Foreign designations were sometimes useful as leads or as sources of additional reporting, but they were not themselves evidentiary substitutes for the administrative record. The UAE listing in particular is poorly suited to serve as justification or corroboration of a terrorism designation. The Emirati government has a documented political and ideological hostility toward the Muslim Brotherhood and toward organizations it perceives as ideologically adjacent. That hostility dates to the Emirati government's domestic crackdown, following the 2011 Arab Spring uprisings, on local civil-society, democracy-promoting, and human-rights groups. The UAE's subsequent 2014 terrorist designation list swept in dozens of mainstream civil-society and advocacy organizations across the West with little or no transparent evidentiary foundation or basis. Citing the UAE list as corroboration would import a foreign government's politically motivated framing and bias rather than supplying the independent proof that the federal constitutional and statutory framework requires.

49. **Eighth, the absence of any prior federal designation of CAIR is itself probative.** Despite the longstanding public availability of the materials the Governor cites, and many similar materials, the federal government never designated CAIR or any of its chapters as a terrorist entity under either the FTO or the SDGT regimes. This is not for lack of awareness of these

[12] VOA News, *UAE Includes 2 US Muslim Groups on Terror List,* Voice of Am. (Nov. 17, 2014), https://perma.cc/3KBX-J94Y.

materials or consideration. I was well aware as office director that there was political interest, including from members of Congress, in seeing CAIR designated. The federal government has had ample opportunity, over multiple administrations and across the full weight of the intelligence and law enforcement apparatus, to evaluate the available information. In my opinion, the fact that CAIR has never been federally-designated reflects the disciplined application of the federal designation criteria and evidentiary framework to that information. The Governor also cites a recent Executive Order by the President directing the State Department to consider designations of certain Muslim Brotherhood chapters as Foreign Terrorist Organizations, and the State Department has taken action against a few such groups. But none of those federally designated foreign groups is CAIR. Based on my experience in government, there has been no basis, let alone one that would survive judicial scrutiny required under the designation criteria and law applicable to U.S. organizations, for designating CAIR.

50. In sum, the materials cited by the Governor do not satisfy the evidentiary requirements that govern federal terrorism designations. They are interpretive rather than evidentiary, association-based rather than operational, and contextual rather than probative. During my tenure, these materials certainly would not have played a foundational role—if any role at all—in an administrative record. My colleagues and I would have considered them non-probative, unreliable, and incapable of surviving judicial scrutiny. The Governor's reliance on them reflects a fundamental deficiency in approach: the substitution of inference for evidence.

V. Conclusion

51. The federal terrorism designation framework was built, over decades and across administrations, around a coherent set of disciplines: an evidentiary threshold tied to demonstrable and serious conduct rather than ideology or association, an interagency review process designed

to surface operational and intelligence concerns before designation, layered legal review designed to ensure the record could withstand judicial scrutiny, and heightened procedural and substantive care where U.S. persons are even potentially within the scope of the action. I saw firsthand that those disciplines exist for good reasons. My colleagues and I implemented them to protect the integrity of the designation tool itself. We sought to ensure that designations were accurate, defensible, and credible. We respected and aimed to preserve the constitutional rights of U.S. persons. And we worked to sustain public confidence in the designation regime as an instrument of national-security policy rather than political action.

52. The Florida Executive Order does not contain those disciplines. Based on my review, it seems that the Governor has not assembled an administrative record before designating CAIR. The Governor has not conducted an interagency process, with officials possessing relevant expertise, before labeling CAIR a terrorist entity. The Governor did not provide CAIR with notice of the basis for the action or an opportunity to respond before the designation issued. The Governor has relied on materials—interpretive scholarship, stale reporting, and outputs from sources whose independence is in serious question—which would not satisfy the evidentiary requirements of a federal administrative record. The Governor's own ongoing discovery demands in this litigation confirm that the evidentiary record the state now seeks to assemble was not in hand at the moment the Governor branded CAIR a terrorist organization.

53. In my experience, the absence of a federal designation of CAIR, despite many years of consideration across multiple administrations, reflects the rigorous application of the federal designation criteria and evidentiary framework to the same broad universe of information on which the Governor now relies. The procedural and evidentiary architecture of the Governor's Executive

Order does not approach the kind of rigor and analysis I observed, applied, and upheld in federal government service.

54. During my State Department tenure, the federal terrorism designation framework was carefully calibrated to ensure that the grave consequences of applying the terrorism label—financial exclusion, criminal exposure for those who engage with the designated entity, severe reputational harm—were solidly grounded in an evidentiary determination that was made with discipline. When that calibration is abandoned, designation becomes an instrument of harsh political pressure and punishment rather than a defensible finding based on fact. For the reasons set forth in this submission, the Governor's Executive Order does not reflect the application of a calibrated process. It reflects its absence.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 29th day of May, 2026.

Jason Blazakis

Jason Blazakis

Exhibit A

Jason M. Blazakis

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https://www.linkedin.com/in/jason-blazakis-ba9034139/

Executive Profile

I am a national security professional with 25+ years of experience spanning counterterrorism, foreign policy, threat finance, sanctions, proliferation financing, and intelligence. I have helped shape U.S. counterterrorism policy and partnered with governments, international organizations, and the private sector to translate complex threats into actionable strategy.

I am a Professor at the Middlebury Institute of International studies where I also currently serve as Executive Director of the Center on Terrorism, Extremism, and Counterterrorism. At Middlebury, my work focuses on the evolving threat landscape at the intersection of terrorism, illicit finance, emerging technology, and geopolitical risk. In recent years, a growing share of my research and client work has centered on AI and security.

Experience and Key Accomplishments

Professor of the Practice
Middlebury Institute of International Studies (MIIS)
July 2018 – Present
Permanent faculty (full professorship) member teaching courses on economic warfare, preventing/countering violent extremism, terrorism, counterterrorism, sanctions, and intelligence. Two peer-reviewed academic books published. In 2024 (Lynne Rienner Publishers): The Mediterranean Connection, which explores illicit activity in North Africa and Europe. In 2026 (Cambridge University Press): Terror Disrupted: Countering the Financing of Terrorism.

Scholarly Metrics *(Google Scholar, as of May 2026)*
Total citations: 1,256 (1,157 since 2021); h-index: 7; i10-index: 4 - produced in less than seven years, following transition from federal government service to academia in late 2018. The corpus spans counterterrorism financing, sanctions policies, terrorist designations policy, the financing of the radical right, private military companies, and the social impacts of large language models, and includes two scholarly books (Cambridge University Press, 2026; Lynne Rienner, 2024), peer-reviewed articles and chapters, policy monographs for RUSI, the Soufan Center, the Global Center on Cooperative Security, the Resolve Network, and CTEC, and commentary in *Foreign Affairs*, *Foreign Policy*, *Lawfare*, the *Georgetown Journal of International Affairs*, and the *International Journal of Intelligence and Counterintelligence*.

Citation profile includes a 2019 co-authored study on the release strategies and social impacts of language models, cited more than 1,100 times and now a foundational reference in AI safety, a research stream extended through subsequent work on the industrialization of terrorist propaganda and on large language models and terrorist financing.

Executive Director
Center on Terrorism, Extremism, and Counterterrorism (CTEC)
July 2018 – Present
Directs research and education efforts related to the study of terrorism, extremism, and counterterrorism. Managed multi-million-dollar program between 2018–present.

Independent Consultant
January 2023 – Present
Led multiple workshops in 2023 and 2024 to build the capacity of the Nigerian Government in the area of targeted financial sanctions — specifically assisting in the areas of FATF Recommendations 6 and 7. Between 2020-2024 led multiple workshops in Jordan, North Macedonia, and Albania in the area of proliferation financing, sanctions evasion, terrorism financing, financial investigations, and targeted financial sanctions. In July 2023, deployed to Malaysia to provide capacity building training for multiple southeast Asian countries in the area of proliferation financing and targeted financial sanctions. In 2023, working with the Council of Europe, I delivered a training for the Government of Ukraine in the area of targeted financial sanctions. Between 2018–2024 deployed on multiple occasions for various components of UNODC (GPML and TPB) to provide training in the areas of terrorism financing, targeted financial sanctions, and proliferation financing. Also, on behalf of the UN, I developed SOPS and e-learning course modules on the topics of UN sanctions, domestic sanctions, relevancy of FATF recommendations, terrorism financing, and proliferation financing. In 2025, I worked on an operational frameworks project, related to EU-based Financial Intelligence Units, on behalf of the Council of Europe.

President and CEO
Riptide Threat Mitigation Group (RTMG)
July 2018 – December 2022
Founder, President, and CEO of a geopolitical risk consultancy group that specialized in identifying and analyzing threat information to protect business interests and minimize reputational risks. Provided specialized training and capacity building services in the area of terrorist finance, P/CVE, proliferation finance, and sanctions.

Senior Advisor
The Soufan Group
November 2019 – August 2023
Carried out all source investigations for various private clients regarding threats to business interests. Provided all-source analytical support on hostage recovery/kidnapping cases.

Senior Research Fellow
The Soufan Center
November 2019 – August 2023
Authored reports and daily intelligence briefings for the Soufan Center's public facing enterprise.

Editorial Advisory Board
Journal of Intelligence and Counterintelligence
January 2020 – August 2022
Served as an advisor on the editorial board for an academic journal that publishes peer-reviewed articles on issues within the field of intelligence and counterintelligence.

Director, Office of Counterterrorism Finance
Bureau of Counterterrorism, U.S. Department of State, Washington, DC
June 2008 – July 2018
Led team of Foreign and Civil Service officers, U.S. federal agency representatives (OFAC, FinCEN, Intelligence Community), and contractors. Advised the Secretary of State to sanction individuals and entities as terrorists, ensuring recommendations are legally defensible and persuasive. Briefed Congressional Members and Staff, describing the process and rationale for the Secretary's actions. Worked directly with foreign partners to ensure they carry out parallel actions with the United States. Led U.S. Government delegations to foreign-hosted events discussing terrorism and the financial activities of terrorists. Represented the Department of State at National Security Staff-chaired meetings on terrorist activities. Formulated and coordinated counterterrorism policies with other U.S. Government departments and agencies. Expert on terrorism, criminal, and proliferation financing.

Top Secret clearance with access to Sensitive Compartmented Information. Single Scope Background Investigation.

Key Accomplishments:

- Secretary of State designated over 500 terrorist organizations and individuals since 2008, denying access to financial assets and other property, prohibiting travel to the United States, and establishing a basis for legal action against these entities.

- Managed the State Sponsor of Terrorism portfolio. Regularly led State Department efforts related to sanctions of Iran, North Korea, Sudan, and Syria. Office was the lead on Cuba's delisting as a State Sponsor of Terrorism.

- Ensured international counterpart compliance with Departmental sanction-related activities. Worked on daily basis with OFAC, FINCEN, and other Treasury Offices on sanctions issues.

- Managed evaluation and award of multimillion-dollar proposals and grants for anti-money laundering and counterterrorism finance programs.

- Worked closely with multiple foreign governments to include but not limited to: United Kingdom, France, Canada, Australia, New Zealand, India, Singapore, and Russian Federation.

- Conducted multiple on-ground training of foreign government personnel in the area of terrorism sanctions and finance. Developed modules and content for the training of foreign government personnel.

- Led U.S. efforts in nomination of individuals and organizations for listing at multiple UN sanctions committees. Worked regularly with UN and maintained strong personal contacts with UN counterparts. In tandem with UN experts, trained foreign governments on matters related to implementation of UN sanctions.

- Served as the Head of Delegation for the U.S. Government at multilateral counterterrorism meetings. Advocated for United States Government counterterrorism policy positions and views, leading to increased collaboration with foreign governments to enhance worldwide counterterrorism efforts.

- Delivered speeches to audiences as varied as the Vatican, Portugal's national security establishment, and the University of Lisbon on terrorism and terrorism finance. Regularly delivered speeches on sanctions.

- Evaluated all-source intelligence information to detect which threats the Secretary of State should sanction as terrorists. State Department's resident expert on sanctions and terrorism.

- Outstanding staff retention rates are a result of fostering a collaborative, objective, and creative office atmosphere, leading to increased productivity.

Intelligence Operations Specialist
Bureau of Intelligence and Research, U.S. Department of State, Washington, DC
July 2005 – June 2008
Identified new resources, business practices, and technologies that were used to improve intelligence support to Ambassadors and other senior diplomats. Coordinated proposals from the National Security Agency with Department offices and lawyers to ensure signals intelligence activities are consistent with foreign policy objectives, a key tenet of Executive Order governing intelligence activities.

Presidential Management Fellow
Bureau of Political Military Affairs, U.S. Department of State, Washington, DC
January 2004 – July 2005
Implemented Presidential directive, certifying foreign policy interests are considered before the Defense Department conducts exercises in politically sensitive geographic locations. Ensured that U.S. military units complied with Congressionally mandated human rights restrictions on military assistance and training activities with foreign forces.

Head of Narcotics Affairs Section, U.S. Embassy Kabul
U.S. Department of State, Washington, DC
2004
Frequent and extended travel to Afghanistan provided real-time management of counternarcotics programs. In-country experience increased credibility with senior Afghan and U.S. Government officials. Managed multimillion-dollar budget, ensuring funds for projects designed to reduce narcotics production in Afghanistan were efficiently administered. Represented State Department at Afghanistan Interagency Operations Group meetings chaired by the National Security Council.

Congressional Research Service
Library of Congress, Washington, DC (Domestic Intelligence Analyst)
October 2003 – January 2004
Authored first ever Congressional Research Service report on unmanned vehicles, "Border Security and Unmanned Aerial Vehicles."

Legislative Assistant
Congressman Jim Saxton (Retired-Republican-NJ), Washington, DC
November 1997 – June 2001
Advised nine-term Congressman on foreign policy, national security, judiciary, counterterrorism, WMD and non-proliferation, telecommunications, intelligence, and cyber issues. Legislation enacted by drafting bills, building bipartisan coalitions, and obtaining co-sponsors. Appointed by Chair, House Armed Services Committee Special Oversight Panel on Terrorism to serve as liaison to the Oversight panel.

Academic Experience

Adjunct Lecturer
Johns Hopkins University
August 2016 – Present
Currently teaching a course on Terrorist Financing and Sanctions

Adjunct Lecturer
University of Maryland
January 2012 – Present
Developed and taught courses on terrorist finance, the rise of ISIL, and terrorist motivations, and "From Theory to Practice."

Education

Columbia University, School of International and Public Affairs, New York, NY
Master of International Affairs, May 2003.

Johns Hopkins University, School of Arts and Sciences, Washington, DC
Master of Government, May 2001.

University of Mississippi, School of Liberal Arts, Oxford, MS
Bachelor of Arts, May 1997.

Honors and Awards

Sanctions Designation by the Government of the Russian Federation (2022)
Designated by the Russian Federation under retaliatory sanctions imposed in response to US support for Ukraine, in recognition of public criticism of the Russian Federation and analytical work on the Wagner Group, the Russian Imperial Movement, and Russia's status as a state sponsor of terrorism.

Superior Honor Award, Bureau of Counterterrorism, U.S. Department of State (October 2012) *"For outstanding sustained level of high performance in managing the Counterterrorism Bureau's Office of Terrorist Designations and Sanctions."*

Quality Step Increase, Bureau of Counterterrorism, U.S. Department of State (July 2011) *"Quality Step Increase In Recognition of Outstanding Performance."*

Meritorious Honor Award (Team), Bureau of Counterterrorism, U.S. Department of State (December 2010) *"For superior performance and dedication to strengthening the effectiveness of terrorist designation regimes and pursuing new designations of terrorist groups, individuals and entities during 2010, including four new Foreign Terrorist Organizations."*

Meritorious Honor Award, Bureau of Counterterrorism, U.S. Department of State (April 2010) *"In recognition of extraordinary performance and accomplishments in support of U.S. Counterterrorism policy during 2009 in his regular duties as the Designations Unit Chief for the U.S. Coordinator for Counterterrorism, and his outstanding coverage as the Acting Director of Trans-Regional Affairs and Multilateral Affairs Unit Chief to strengthen U.S. multilateral counterterrorism engagement."*

Quality Step Increase, Office of the Coordinator for Counterterrorism, U.S. Department of State (April 2009) *"In recognition of Outstanding Performance."*

Meritorious Honor Award (Team), Bureau of Counterterrorism, U.S. Department of State (December 2008) *"S/CT Designations Unit — For outstanding teamwork and dedication in conducting 29 statutorily required five-year reviews of Foreign Terrorist Organizations and directly supporting the war on terrorism by curtailing support for terrorist activities."*

Meritorious Honor Award, Bureau of Intelligence and Research, U.S. Department of State (May 2007) *"For sustained outstanding performance in the Office of Intelligence Resources. You have demonstrated a high degree of writing ability, strong interpersonal skills, and a great willingness to take on new tasks while serving as the action officer responsible for INR's interaction with technical collection agencies on sensitive coordination issues."*

Meritorious Honor Award, Bureau of Political and Military Affairs, U.S. Department of State (June 2005) *"In recognition of outstanding leadership in the development of new procedures for the Department's process for issuing diplomatic clearances for foreign government aircraft to enter U.S. airspace, thereby enhancing U.S. homeland security while providing improved efficiency of communication with over 172 foreign embassies and missions."*

Presidential Management Fellowship, U.S. Office of Personnel Management (December 2005) Awarded to fellows selected through a competitive, government-wide process for outstanding leadership potential and commitment to public service; assigned to the U.S. Department of State, Bureau of Political-Military Affairs.

Certificate of Appreciation, Bureau of International Narcotics and Law Enforcement Affairs, U.S. Embassy Kabul (September 2004) *"For your outstanding contributions to U.S. counter-narcotics programs in Afghanistan during your tenure with the Bureau of International Narcotics and Law Enforcement Affairs."*

Publications

Books

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Williams, Phil, Jason M. Blazakis & Colin P. Clarke, *The Mediterranean Connection: Criminal Networks and Illicit Economies in North Africa*. Boulder, CO: Lynne Rienner Publishers, 2024. https://www.rienner.com/title/The_Mediterranean_Connection_Criminal_Networks_and_Illicit_Economies_in_North_Africa

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Jason M. Blazakis, Newhouse, Alex, and Kris McGuffie. *The Industrialization of Terrorist Propaganda: Neural Language Models and the Threat of Fake Content Generation*. Center on Terrorism, Extremism, and Counterterrorism, Middlebury Institute of International Studies at Monterey, November 2019.

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2025

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2023

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Blazakis, Jason M. "U.S. Has Taken FARC Off Its Terrorist List, Giving Insight into Biden's Foreign Policy." *The Conversation*, January 26, 2022. https://theconversation.com/us-has-taken-farc-off-its-terrorist-list-giving-insight-into-bidens-foreign-policy-174667

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Public Engagement and Media

Since 2018, my analysis of terrorism, terrorist financing, sanctions, and the radical right has been cited or featured in more than 350 news outlets across more than twenty

countries. I have appeared as an on-camera or on-air expert on the major US cable and network news outlets, including CNN, MSNBC, MS NOW, CBS News, NBC News, Fox News, NPR, and Voice of America, and on leading international broadcasters including the BBC, Sky News, Al Jazeera, Australian Broadcasting Corporation, and Univision. The list below is selective.

Selected Broadcast Television

United States, Network and Cable

MS NOW, on the November 26, 2025 shooting of two West Virginia National Guard members near the White House by an Afghan national who entered the United States through Operation Allies Welcome, and the implications for U.S. refugee vetting policy (late November 2025).

Fox News, on the proposed designation of Mexican drug cartels as Foreign Terrorist Organizations (February 19, 2025).

News Nation, *Rush Hour*, on the New Year's Eve machete attack in New York City (January 2, 2023).

MSNBC, on domestic extremism (August 13, 2022).

CNN, with Jim Sciutto, on Russia sanctions and the war in Ukraine (May 9, 2022).

NBC News Now, with Morgan Radford, on the case for designating Russia a state sponsor of terrorism (May 6, 2022).

Law & Crime Network, with Brian Ross, on the Wagner Group (April 28, 2022).

MSNBC, *All In with Chris Hayes*, on Russia, Ukraine, and the case for designating Russia a state sponsor of terrorism (April 20, 2022).

CNBC, citation in television segment on Russia and President Zelensky's request to designate Russia a state sponsor of terrorism (April 15, 2022).

Newsmax, on Russia sanctions and the war in Ukraine (March 14, 2022).

MSNBC, with Craig Melvin, on gas prices and the impact of Russia sanctions (March 7, 2022).

Straight Arrow News, on the one-year anniversary of the January 6 Capitol attack (January 5, 2022).

MSNBC, on the domestic far-right threat (December 24, 2021).

CNN, with Michael Holmes, on the situation in Afghanistan following the US withdrawal (August 27, 2021).

Newsy (Scripps), on international white-supremacist terrorist networks (February 11, 2021) and on the case for designating Russia a state sponsor of terrorism (April 19, 2022).

MSNBC, *The Week with Joshua Johnson*, on domestic terrorism following the January 6 Capitol attack (January 31, 2021).

CBS News, with Lana Zak, on the FBI disruption of the plot to kidnap Michigan Governor Gretchen Whitmer (October 8, 2020).

KION CBS, KSBW NBC, and other regional broadcast affiliates, recurring expert source on terrorism and political violence (2019–2025).

International broadcasters

RTVI, on the trial of Sayfullo Saipov (January 11, 2023) and on the violent online network 764 (February 12, 2026).

Al Jazeera, *The Take*, on the radical right and political violence in the United States (October 22, 2025).

Australian Broadcasting Corporation, *Late Night Live*, on Cuba and the State Sponsor of Terrorism list (August 16, 2024).

Al Jazeera, on the 2022 US midterm elections and election-security concerns (November 6, 2022).

BBC News, on the prosecution of the so-called ISIS Beatles and the sentencing of El Shafee Elsheikh (August 19, 2022).

BBC News, on the Wagner Group (March 13, 2022).

BBC, on the situation in Afghanistan and ISIS-K following the US withdrawal (August 31, 2021).

Sky News (London), live appearance on the situation in Afghanistan (August 28, 2021).

Vice News, on-camera documentary feature on the Azov movement in Ukraine (May 14, 2021).

Latvian Public Television, on the challenge of domestic terrorism in the United States (March 10, 2021).

Al Jazeera English, *The Stream*, on Iran sanctions and the Joint Comprehensive Plan of Action (February 23, 2021).

Univision, recurring expert on domestic terrorism, the January 6 Capitol attack, and the September 11 anniversary (multiple live appearances, January–September 2021).

Danish Public Broadcasting (DR), documentary feature on Basil Hassan and the ISIS drone program (April 2019).

Voice of America, recurring on-camera and on-air expert across English, Persian, Russian, and Dari language services, on the Russian Imperial Movement designation, the Iranian foreign minister's designation, ISIS-K, the war in Afghanistan, the Wagner Group, Prigozhin's death, and the Crocus City Hall attack (multiple appearances, 2019–2025).

Italian documentary on the 1985 hijacking of the *Achille Lauro* (2025).

Selected Print and Online Press

The Sydney Morning Herald, on the Bondi Beach attack and lessons from US designation practice (December 17, 2025).

The Guardian, on the Trump administration's approach to the far-right threat and the State Department's shift in domestic-extremism language (May 24, 2025).

BBC Mundo, on the proposed designation of Mexican drug cartels as Foreign Terrorist Organizations (January 22, 2025).

The New York Times, on the proposed designation of Mexican drug cartels as Foreign Terrorist Organizations (January 21, 2025) and on the Trump administration's cartel designation policy (November 27, 2019).

The Economist, on the New Orleans New Year's Day attack and the persistence of ISIS-inspired plotting in the United States (January 2, 2025).

ProPublica, lead expert source for major investigative features including "Global Right-Wing Extremism Networks Are Growing. The U.S. Is Just Now Catching Up" (January 22, 2021) and stories on the Pakistan–Mumbai prosecution (July 17, 2019).

The Atlantic, on the evolution of the Islamic State (November 22, 2019).

Reuters, on the proposed designation of the Muslim Brotherhood (April 30, 2019), the cabinet's opposition to the Mexican cartel terrorist policy (December 26, 2019), and additional stories on counterterrorism finance.

The Wall Street Journal, on the proposed designation of the Muslim Brotherhood as a Foreign Terrorist Organization (April 30, 2019) and on the Iranian Revolutionary Guard Corps designation (April 5, 2019).

Politico, expert source on multiple stories including the Biden administration's domestic terrorism strategy and the Trump administration's State Sponsor of Terrorism list policy (2021–2025).

The Washington Post, expert source on more than a dozen stories spanning Iran and the killing of Qasem Soleimani, the Houthi designation, the January 6 Capitol attack, antifa, ISIS, the Wagner Group, the impact of Russia sanctions, and the November 2025 designation of four European far-left groups as Foreign Terrorist Organizations (2019–2025).

Foreign Policy, *Time*, *Newsweek*, *Forbes*, *Vanity Fair*, *Bloomberg Government*, *The Hill*, *USA Today*, and the *Los Angeles Times*, expert source on terrorism, sanctions, the radical right, the Wagner Group, and counterterrorism finance (2019–2025).

Vice News, lead expert source on multiple investigative features on the Boogaloo movement, far-right networks, and Azov in Ukraine (2019–2021).

The Washington Post, expert source on more than a dozen stories spanning Iran and the killing of Qasem Soleimani, the Houthi designation, the January 6 Capitol attack, antifa, ISIS, the Wagner Group, the impact of Russia sanctions, and the November 2025 designation of four European far-left groups as Foreign Terrorist Organizations (2019–2025).

International press in twenty-plus countries, including *Le Monde*, *El País*, *Asahi Shimbun*, *Yomiuri Shimbun*, *Jyllands-Posten*, *L'Espresso*, *Publico* (Portugal), *NRC* (Netherlands), *T Online* (Germany), *Crusoe* (Brazil), *La Repubblica*, and *Middle East Eye*, expert source on US counterterrorism policy and the global radical right (2019–2026).

Selected Radio and Podcasts

ACAMS, feature interview, "Disrupting Terror Finance: Middlebury Institute's Jason Blazakis" (2026).

ACAMS, *Financial Crime Matters*, podcast interview on terrorist financing (April 27, 2026).

Middlebury Rohatyn Center, *New Frontiers*, season 4 episode 5, "US Terrorist Lists: Who Decides and Why It Matters" (March 15, 2026).

NPR, *Morning Edition*, on the designation of four European leftist groups as Foreign Terrorist Organizations (November 21, 2025).

NPR, *All Things Considered*, on the Trump administration's designation of antifa as a domestic terrorist organization (October 28, 2025).

Al Jazeera, *The Take*, on political violence and the Trump administration's domestic terrorism agenda (October 22, 2025).

The Bunker, on domestic terrorism in the United States (October 7, 2025).

NPR, *All Things Considered*, on what designating cartels as terrorist organizations means in practice (January 23, 2025).

NPR, on political violence and the 2024 election (September 17, 2024).

Australian Broadcasting Corporation, *Late Night Live*, on the Cuba State Sponsor of Terrorism designation (August 16, 2024).

ACAMS *Sanctions Space*, hosted by Justine Walker, "Jason Blazakis on the Future of the Wagner Group" (January 18, 2024).

BBC Radio, podcast feature on the role of private military companies in the war in Ukraine (March 10, 2022).

This American Life, episode 736, "The Herd," on COVID-19 and the medical community (April 26, 2021).

LBC London (Leading Britain's Conversation), on the ISIS Beatles court case (October 7, 2020).

BBC, *Sunday Times Radio* (London), on the prosecution of the so-called ISIS Beatles (August 28, 2020).

Cash Only podcast, on right-wing extremism (February 5, 2020).

Spycast, International Spy Museum, hosted by Vincent Houghton, "Rethinking CT: A Conversation with Jason Blazakis" (March 19, 2019).

The Lawfare Podcast, hosted by Benjamin Wittes and Mary McCord, on domestic terrorism (January 2019).

KQED San Francisco, KCBS, WWL New Orleans (recurring on the Tommy Tucker show), KNPR Nevada, KGO ABC San Francisco (Pat Thurston show), and other US public radio and major-market commercial radio, recurring expert source (2019–2025).

Exhibit G-2-2

Exhibit 5

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

CAIR-FOUNDATION, INC. and
CAIR-FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:25-cv-00516-MW-MJF

RONALD DESANTIS, in his official capacity as Governor, State of Florida,

Defendant.

PLAINTIFFS' EXPERT REBUTTAL REPORT OF JASON BLAZAKIS

I. Introduction and Methodology

1. For more than ten years, I directed the Department of State office responsible for terrorism-related designations, including designations of foreign terrorist organizations under Section 219 of the Immigration and Nationality Act and designations under Executive Order 13224.

2. Had an interagency colleague or FBI Special Agent brought me Ms. Burns's report[1] as the basis for federal designation of CAIR, I would not have advanced it through our process for terrorism designations, which I described in my prior report.

3. In reviewing Ms. Burns's report, I applied the same methodological and evidentiary tests I would have applied to any designation justification package I created or reviewed as Director. I considered the methodological discipline of her opinion and the evidence on which she relies—i.e., whether the evidence is stale or current; any indications of bias; and, most importantly, whether the evidence establishes any operational involvement in or actual material support for terrorism.

4. As a State Department official tasked with applying terrorism designation criteria, I considered these tests necessary to ensure that the high-stakes decision to label anyone—let alone a United States nonprofit organization—a terrorist was sound, meaningfully justified, defensible in court, and worthy of this country as a democracy. Measured against every one of them, Ms. Burns's opinion fails.

5. In my experience, a sound terrorist designation rests on a simple premise. The identification of a target begins with credible threat-related information such as intelligence and proceeds to a high-level determination signed off on by a senior government official, rather than

[1] Expert Report of Lara Burns, *CAIR-Foundation, Inc. v. DeSantis*, No. 4:25-cv-516-MW-MJF (N.D. Fla. May 27, 2026) ("Burns Report").

beginning with a conclusion and assembling facts to support it. When I directed the State Department's designations office between 2008 and 2018, the threshold we applied was deliberately indifferent to the identity, faith, or politics of the target. An entity could be designated because of what it did, not because of what it believed. That neutrality was not a courtesy. It was what gave our terrorist designations legitimacy and durability; a designation built on ideology or expression rather than conduct will not, and should not, survive scrutiny. In my direct experience, this is one of the most important ways the United States separates itself from authoritarian regimes that affix the terrorist label to their actual or perceived enemies for holding a different belief system. This is what gives me pause, to say the least, about Ms. Burns's expert report: It focuses on speech, religion, and belief.

6. Simply put, in my experience, Ms. Burns's report falls well below the established federal standards that I implemented and observed for over ten years as an expert in the designation of terrorist organizations. Her report inverts the methodological discipline that I and my colleagues at the State Department followed. Ms. Burns begins from the premise that CAIR is a front for terrorist groups and then reads the evidence to confirm that premise. My concern is with the direction of her analytical reasoning. When the conclusion precedes the evidence, ambiguous facts are resolved to conform with that conclusion, association is treated as participation, and speech is treated as proof of conduct. Each of those flaws appears in her report, and each reflects exactly the analytical posture the federal designations process was designed to guard against.

II. Opinion[2]

7. This rebuttal report addresses four points. First, and most important, Ms. Burns's report establishes no operational involvement in, or material support for, terrorism by CAIR, which is the controlling question for any designation. Second, the evidence on which Ms. Burns relies is stale. Third, Ms. Burns's conclusions rest on inference rather than conduct. Fourth, the concrete terrorist designations my former office led against Hamas and Hamas members between 2008 and 2018 are a sharp contrast to the case her report assembles against CAIR. I also address the apparent advocacy posture that shapes Ms. Burns's analysis.

A. Ms. Burns's Report Establishes No Operational Role or Material Support for Terrorism by CAIR.

8. Ms. Burns cites no evidence that CAIR has ever financed or otherwise materially supported Hamas. That absence is dispositive. Under the authorities I administered, an entity is designable for what it does—for committing, attempting, or providing material support or resources to terrorism—and the threshold question is always whether the record establishes such conduct. Ms. Burns's report does not.

9. Her report does not, in fact, claim that CAIR commits terrorism. By Ms. Burns's own account, CAIR's role is to defend the other elements of a purported network and to pressure or intimidate critics. Even if true, that is a description of speech and advocacy, not of violence.

10. To support the claim that the conspiracy Ms. Burns posits is ongoing, she leans on citations dated 2020 through 2026. None involves a terrorist act carried out by CAIR. They fall into three categories.

[2] It is important to reiterate that the contents of this report in no way represent Middlebury College or the Middlebury Institute of International Studies in Monterey. Nor do they represent the opinion of the Center on Terrorism, Extremism, and Counterterrorism.

11. The first category is the speech of current or former CAIR officials and chapter affiliates. The most prominent recent items Ms. Burns cites are statements: Nihad Awad's November 2023 remark about being glad to see Gazans break the siege; Hussam Ayloush's characterization of the October 7 attacks as self-defense; Zahra Billoo's eulogy describing Ismail Haniyeh as a martyr; and a CAIR-Florida official's social media post on the day of the attack. Of these individuals, only Mr. Awad is an official of CAIR National. Mr. Ayloush and Ms. Billoo serve independent CAIR chapters outside Florida. With respect to the social media post of the CAIR-Florida official, a former executive director, Ms. Burns acknowledges, as she must, the tenuous nature of her characterization of his pro-Palestinian speech as "seemingly in subtle support of the attack." Whatever one makes of these statements, they are expression. The report does not allege that any of these individuals directed, financed, or coordinated an act of violence, or that any CAIR official crossed from advocacy into prohibited material support for a designated terrorist organization. Ms. Burns's report offers the statements as evidence of sympathy. Sympathy is not criminal conduct.

12. The second category is CAIR's institutional advocacy. Ms. Burns's report points to CAIR statements criticizing specific terrorism prosecutions as unjust and as reflecting anti-Muslim bias, the labeling of specific universities as hostile to Muslims or to pro-Palestinian advocacy, the co-sponsorship of rallies and marches, and the funding or legal defense of students disciplined for campus protest. This is political organizing, public relations, and litigation, the ordinary work of a United States advocacy organization. However much Ms. Burns disapproves of the content of CAIR's advocacy, none of it is the planning, financing, or commission of terrorism.

13. The third category, which accounts for the largest share of the recent citations, does not concern CAIR at all. Ms. Burns's discussion of the federal designation of the Popular Conference for Palestinians Abroad, the fatwas and personnel of the International Union of Muslim

Scholars, the federal designations of Majeed al-Zeer, Marwan Abu Ras, and Hisham Abu Mahfuz, a National Students for Justice in Palestine toolkit, a search warrant on two George Mason University students for alleged campus vandalism, and the speeches of current or former American Muslims for Palestine officials and director Osama Abu Irshaid all describe expression or conduct by other organizations and individuals. Where CAIR appears in this material at all, it appears by remote proximity rather than by any action it has taken. The clearest instance of Ms. Burns's guilt by association methodology is a 2025 online event at which a CAIR-Ohio official appeared as a panel moderator and at which a federally-designated individual also spoke.[3] Notably, Ms. Burns says nothing in her report about CAIR-Ohio and its official's public explanation that the official participated in the event in an individual capacity, did not know a designated person was participating in the event, had no interaction with that person, and moderated a panel with completely different speakers.[4] Unknowing adjacency is not evidence of a terrorist act.

14. As I explained in my original report, in my experience in federal government service, designating a U.S. person requires substantially greater caution because U.S. persons have constitutional rights, including the First Amendment right to free speech and expression. By contrast, Ms. Burns's report strikingly ignores or disregards these vital constitutional values and protections.

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[3] Lahav Harkov, *CAIR-Ohio Leader Moderated Event Featuring Designated Terrorist*, Jewish Insider (Oct. 27, 2025), https://jewishinsider.com/2025/10/cair-hamas-member-majed-al-zeer-web-conference-speakers/; Maya Sulkin, *CAIR Official Joins Hamas Leader at 'Al-Aqsa Flood' Event*, The Free Press (Oct. 28, 2025), https://www.thefp.com/p/cair-official-joins-hamas-leader-al-aqsa-flood-event (reporting the CAIR-Ohio official's statement that he never participated in any panels with, or interacted with, the designated individual).

[4] *CAIR-Ohio Addressing Oversight by Employee After Personal Participation in Think-Tank Event Featuring Sanctioned Individual*, CAIR-Ohio (Oct. 28, 2025), https://cair-ohio.com/cair-ohio-addressing-oversight-by-employee-after-personal-participation-in-think-tank-event-featuring-sanctioned-individual/.

15. In sum, nowhere in Ms. Burns's report does she allege or substantiate that CAIR itself carries out acts of terrorism. To the extent her theory is that CAIR is intertwined with other organizations that do engage in criminal conduct, and that CAIR must therefore be prohibited from providing material support to them, that theory still requires evidence, and that evidence must be current. There is none. Nothing in Ms. Burns's report establishes that today CAIR is intertwined with Hamas, that it materially supports Hamas, or that it coordinates with Hamas in any way. As I explain below, the record she assembles is decades old, and my own office's sustained pursuit of Hamas found no link to CAIR at all.

B. Ms. Burns Relies on Stale Information.

16. The timeliness or currency of evidence matters because, as I explained in my report, a designation can rest only on a record that reflects prohibited conduct now, not what some of its eventual founders may have said years before the entity existed. During my tenure, experts in the designation of terrorist organizations would not have relied on the documents Ms. Burns cites to compile an administrative record or to conclude that an organization met the criteria for designation. The evidentiary foundation of her opinions is both narrow and remarkably dated.

17. Ms. Burns cites fifteen trial exhibits from the record of *United States v. Holy Land Foundation*, a terrorism financing prosecution that concluded in 2008. The exhibits span just six years: 1988, 1991, 1993, 1994, 1999, and 2008.[5] Twelve consist of documents the FBI seized and conversations it recorded, and Ms. Burns uses them in her report to purportedly establish facts

[5] Through CAIR's counsel, I asked for copies of all exhibits because some are not publicly accessible. Counsel informed me they made that request to Governor DeSantis's counsel on June 4, 2026. Governor DeSantis's counsel provided copies of the non-publicly available exhibits on June 25, the day before this report is due. I am unable to review the non-public exhibits by the deadline for submission of this rebuttal report, but if those exhibits substantially affect my opinions, I will supplement this report.

about CAIR's origins and support for terrorism. But eleven of the twelve documentary and wiretap exhibits predate Hamas's 1995 designation under Executive Order 12947[6] as a Specially Designated Terrorist, and all but the 1999 wiretap predate its 1997 designation as a foreign terrorist organization.

18. None of this underlying evidence dates from the past five years, and none of it dates even from the past two decades. The only exhibits postdating 2000 are the three products of the 2008 trial itself, namely: Ms. Burns's own testimony, the testimony of a second government witness, and a demonstrative chart prepared for the jury. Even measured against that newest material, her own account of documents that are themselves decades old, nothing in her exhibit list is less than eighteen years old.

19. The age of these materials is not a technicality. Even on Ms. Burns's own theory, that these documents explain how and why CAIR was founded as part of a conspiracy to support Hamas, they cannot bear the weight she places on them. The seized documents and recordings either predate CAIR's incorporation or do not name CAIR, and none of them document any criminal act by CAIR. It is telling that despite the long federal law enforcement and public awareness of these materials, CAIR has never been charged, let alone convicted, with a federal crime. Moreover, as I discussed above, the materials Ms. Burns cites from 2023 through 2026 are news articles, press releases, social media posts, and designations of other people and organizations. None of them bears on how or why CAIR was founded, much less on any current criminal conduct by CAIR.

[6] This Executive Order was terminated in 2019 with the Trump Administration's adoption of Executive Order 13886, which, as noted in my previous expert report, modernized the executive order regime targeting terrorist activity.

20. A record this thin would not have survived even the first stage of the terrorist designations process I once directed.

C. Ms. Burns Relies on Inferences, not Evidence.

21. Because Ms. Burns cites no evidence that CAIR financed or otherwise materially supported Hamas, her opinions rest on inference. During my tenure, experts in the designation of terrorist organizations would not have drawn the inferences she draws from the evidentiary record on which she relies.

22. Two of Ms. Burns's load-bearing opinions illustrate the problem. The first is that CAIR was created at the 1993 Philadelphia Meeting to shield other purported elements of a Hamas-support network.[7] The wiretap transcripts she cites for this proposition record no decision to create CAIR.[8] The transcripts do not name CAIR. They do reference a participant identified only by the first name Nihad, possibly Nihad Awad, who later helped found CAIR. That detail does not rescue the inference. A first-name reference to a person who would go on to co-found an organization does not constitute a decision to create that organization for an unlawful purpose, nor is it evidence that CAIR was formed to support Hamas. Ms. Burns's theory requires that CAIR must have been created to further the purported goals of the 1993 meeting because two attendees were later involved in forming CAIR. That is a *possibility* that fits Ms. Burns's theory, but it is not evidence that supports her theory.

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[7] Burns Report, at Opinions § III(a) (the Philadelphia Meeting attendees "agreed to create an additional front organization in Washington D.C. … and that new organization was the Council on American Islamic Relations (CAIR)"); *id.* at Factual Basis § V(d)(3).

[8] Government Exhibits Philly Meeting 1-16, *United States v. Holy Land Foundation*, No. 3:04-CR-240-G (N.D. Tex. 2008), https://extremism.gwu.edu/legal-documents (Geo. Wash. U. Program on Extremism, Legal Documents: HLF Exhibits, Jan. 30, 2025). The transcripts do not name CAIR, which was not incorporated until 1994. CAIR, *Certificate of Articles of Incorporation of Council on American-Islamic Relations, Inc.* (Wash., D.C. Sept. 15, 1994).

23. The second is Ms. Burns's opinion that CAIR has never withdrawn from a conspiracy to support Hamas.[9] But here, too, there is an analytical fallacy: That opinion presupposes the very conspiracy it purports to prove. And, as I have explained, Ms. Burns's evidentiary basis for the conspiracy suffers from fatal flaws; it would have been rejected were it to cross my desk in federal government service. The support Ms. Burns offers for an ongoing conspiracy consists of statements by CAIR or CAIR-affiliated individuals after October 7, 2023; CAIR's advocacy and press releases; and CAIR's remote proximity to designated third parties. Again, the most proximate example Ms. Burns offers is the 2025 online event noted above, at which a CAIR-Ohio official spoke at an event in his personal capacity on a panel entirely separately from a designated individual, and did not even know that individual's designated status. Inferring continued membership in a criminal conspiracy from political advocacy and a brief and unknowingly shared virtual venue is, in my experience, untenable.

D. Ms. Burns Analysis Reflects Advocacy, Not Neutral Assessment.

24. One further matter bears on the weight Ms. Burns's opinions can carry. Ms. Burns is employed by George Washington University's Program on Extremism. As I previously observed, credible reporting indicates that the George Washington Program on Extremism has received direct funding from the United Arab Emirates as part of a political effort to connect CAIR—and other Muslim groups in the west—to Hamas. Ms. Burns and the Program with which she is affiliated have a sustained body of public advocacy against CAIR and related organizations, and that advocacy reaches conclusions consistent with the opinions offered in her report. I do not suggest bad faith. I note only that a report submitted to me by an analyst with this record of advocacy would have received correspondingly less weight. The direction of Ms. Burns's analysis is

[9] Burns Report, at Opinions § III(c)-(d), Conclusion § IX.

consistent with a conclusion fixed in advance, with purported evidence retrofitted to support the conclusion.

E. My Experience with Hamas-Specific Terrorist Designations.

25. While serving as the Director of the State Department's Office of Counterterrorism Finance and Terrorist Designations, among my most important duties was to ensure that the State Department used its terrorist designation authorities[10] effectively against Hamas.

26. To that end, my office led the efforts to designate: Ismail Haniyeh on January 31, 2018; Abu Anas al-Ghandour on April 6, 2017; Fathi Hammad on September 16, 2016; Muhammad Deif on September 8, 2015; Rawhi Mushtaha on September 8, 2015; Yahya Sinwar on September 8, 2015; and Muhammad Hisham Muhammad Isma'il Abu Ghazala on September 22, 2011.[11] In addition to these seven Hamas-related designations pursuant to authority under Executive Order 13224, my office reviewed and approved every Hamas-related designation proposal put forward by my colleagues at the Treasury Department.

27. At no time was the State Department's use of the federal designation authority under Executive Order 13224 more aggressive in pursuing Hamas actors than under my direction. Before my arrival, the State Department had designated Hamas but no individuals affiliated with it under Executive Order 13224. Since my departure, and over the course of subsequent Republican and Democratic administrations, the State Department has designated one individual, Marwan

[10] In the case of Hamas, I allude here to the Foreign Terrorist Organization and Executive Order 13224-related legal authorities that the State Department possesses.

[11] *See* U.S. Dep't of State Bureau of Counterterrorism, *Individuals and Entities Designated by the State Department Under E.O. 13224,* U.S. Dep't of State: Executive Order 13224, https://www.state.gov/executive-order-13224#state (last visited June 16, 2026) (State Department Executive Order 13224 designations).

Issa, under Executive Order 13224.[12] During my time at the State Department, my office also carried out multiple mandatory reviews of Hamas's status as a designated Foreign Terrorist Organization under the Immigration and Nationality Act.

28. This work was carried out by an exceptionally well-trained team applying rigorous, evidence-based methods. The staff who worked on designations for me trained at the State Department's Foreign Service Institute, and I completed coursework there and at the Central Intelligence Agency's Sherman Kent School. Several staff received training from the Financial Crimes Enforcement Network. Our team was sufficiently expert that several members were selected to train foreign governments on designations tradecraft, including deployments to Lebanon to instruct Lebanese officials. Every person who worked on designations for me held access to intelligence and law enforcement information at three classification levels: unclassified and law enforcement sensitive; secret, through SIPRNet (the Secret Internet Protocol Router Network, which is the federal government and military's classified intranet); and top secret through JWICS (the federal government's Joint Worldwide Intelligence Communications System, which is the most secure Intelligence Community network). We could draw raw intelligence from every major Intelligence Community agency, as well as diplomatic reporting, from the desktop in our analysis and decision-making.

29. In carrying out my State Department counterterrorism office's aggressive pursuit of Hamas-related designations, we never identified credible information indicating a connection between Hamas and CAIR, much less information specific to CAIR's involvement in financing terrorism.

[12] This count is current as of June 16, 2026.

30. Designation packages under Executive Order 13224 require an administrative record sufficient to satisfy both the legal standard and interagency scrutiny, and foreign terrorist organization reviews under the Immigration and Nationality Act require a comprehensive reassessment of a group's activities, financing networks, and organizational relationships. My office coordinated these processes across the Intelligence Community, the Department of Justice, the Department of the Treasury, the Federal Bureau of Investigation, and other agencies. We were not working in isolation, and we were not working from incomplete information. The interagency process is specifically designed to surface connections between designated entities and other actors in their orbit.

31. Had credible, articulable evidence existed linking CAIR to Hamas financing, material support, or organizational coordination, that evidence would have been available to us and would have been actionable. It was not. The absence of such information across multiple decades of State Department Hamas designation activity, spanning administrations of both parties and comprehensive foreign terrorist organization reviews, is not a gap in the record. It is the record.

III. Conclusion

32. I have four points to emphasize in summary.

33. First, and most importantly, Ms. Burns's report establishes no operational role in, and no material support for, terrorism by CAIR. It identifies no terrorist act, no act of financing, and no provision of material support by CAIR to Hamas or to any other designated entity. That is the question a designation package or justification must answer, and Ms. Burns's report does not answer it.

34. Second, the evidentiary record behind Ms. Burns's report is stale. Every exhibit comes from the record of the *Holy Land Foundation* prosecution. The newest is eighteen years

old. None documents a terrorist act by CAIR. The recent material she cites in support of her theory of an ongoing material support conspiracy by CAIR is pure speech, institutional advocacy, or, at worst, conduct by people and organizations other than CAIR.

35. Third, Ms. Burns's opinions rest on flawed inferences that experts in the field would not and did not draw, rather than criminal conduct. The report draws conclusions based on a very thin evidentiary record that would have been unacceptable in the federal designation process I led. It relitigates a case to which CAIR was not a party, *Holy Land Foundation*, which the United States closed more than two decades ago, against an organization that no longer exists, without ever showing that CAIR financed, attempted to finance, or otherwise materially supported Hamas.

36. Finally, it bears noting that Ms. Burns held the opinions reflected in her report during her years as an FBI agent, when she had access to the very materials she now cites. Whatever she believed then, or believes now, those opinions did not result in any criminal charges against CAIR arising out of *Holy Land Foundation* or any other matter. CAIR was never prosecuted.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 26th day of June, 2026.

Jason Blazakis

Jason Blazakis

Exhibit H

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

CAIR-FOUNDATION, INC. and
CAIR FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:26-cv-521-AW/MAF

RON DESANTIS *et al.*,

Defendants.
_____/

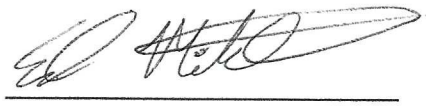
SUPPLEMENTAL DECLARATION OF EDWARD MITCHELL ON BEHALF OF CAIR FOUNDATION, INC.

Pursuant to 28 U.S.C. § 1746, I, Edward Mitchell, declare as follows:

1. I am a resident of Georgia and over the age of eighteen. I have personal knowledge of the facts set forth in this declaration. If called to testify, I could and would testify competently to these facts under oath. I am providing this declaration based on my personal knowledge, my role as the National Deputy Director of CAIR-Foundation, Inc. ("CAIR"), information known to me through CAIR's regular programs, operations, and activities, and my review of CAIR's records maintained in the ordinary course of business.

2. As CAIR has repeatedly stated, it does not engage in or support any terrorist activity. And to be perfectly clear, CAIR is not engaged in any activity directed by, or coordinated with, Hamas or the Muslim Brotherhood.

I declare under penalty of perjury that the foregoing is true and correct. This declaration is executed on October 16, 2026.



Edward Mitchell

Exhibit I

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISIONS

CAIR-FOUNDATION, INC. and
CAIR FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:26-cv-521-AW/MAF

RON DESANTIS *et al.*,

Defendants.
_____/

SUPPLEMENTAL DECLARATION OF WILFREDO RUIZ ON BEHALF OF CAIR FLORIDA, INC.

Pursuant to 28 U.S.C. § 1746, I, Wilfredo Ruiz, declare as follows:

1. I am a resident of Broward County, Florida. I am over the age of eighteen. I have personal knowledge of the facts stated in this declaration. If called to testify, I could and would testify competently to these facts under oath. I am providing this declaration in my capacity as the Communications Director of CAIR Florida, Inc. ("CAIR-Florida"). As Communications Director, I am a senior member of CAIR-Florida's management team and am familiar with CAIR-Florida's programs, operations, and activities.

2. As CAIR-Florida has repeatedly stated, it does not engage in or support any terrorist activity. And to be perfectly clear, CAIR-Florida is not engaged in any activity directed by, or coordinated with, Hamas or the Muslim Brotherhood.

3. Separately, on October 5, 2026, CAIR-Florida received an email from the Arab Students' Association at the University of Florida. CAIR-Florida had been scheduled to speak at the students' November 9 event on "How to Self-Advocate When Encountering Islamophobia on Campus." The Arab Students' Association explained in the email that, "due to the tense political climate involving CAIR Florida at the moment, we have decided that it will be in the best interest of our club to cancel this event." We called to follow up with the student group, which explained that the cancellation was because of their fear of associating with CAIR-Florida after our organization was designated under the DTO regime.

4. On October 16, 2026, a key member of our policy team informed us that they are regretfully considering resigning as a result of CAIR-Florida's designation and will make a final decision by October 30. The policy team member, who is a contractor with us, stated that they are waiting to see if the court hearing scheduled in our lawsuit for October 28 will result in any indication that the designation will not go into effect. If the designation does not go into effect, the policy team member will remain at CAIR-Florida. This person conducts policy and legislative analysis related to discrimination against Muslims in Florida and also conducts

community outreach and support. They are an integral part of CAIR-Florida's work to protect the rights of Muslim Floridians.

I declare under penalty of perjury that the foregoing is true and correct. This declaration is executed on October 16, 2026.

/s/ Wilfredo Ruiz
Wilfredo Ruiz

Exhibit J

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

CAIR-FOUNDATION, INC. and
CAIR FLORIDA, INC.,

Plaintiffs,

v.

Case No. 4:26-cv-521-AW/MAF

RON DESANTIS, *et al.*,

Defendants.
_____/

DECLARATION OF CHARLES HOGLE

I, Charles Hogle, declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.

2. I am a lawyer with the American Civil Liberties Union Foundation. I represent Plaintiffs in this case.

3. Attached as **Exhibit A** is a true and correct copy of a letter from John Kerry, U.S. Secretary of State, to Nihad Awad, Executive Director, CAIR, dated May 5, 2015.

I declare under penalty of perjury that the foregoing is true and correct.

Executed October 16, 2026.

/s/Charles Hogle
Charles Hogle

Exhibit J-1

Exhibit A

THE SECRETARY OF STATE
WASHINGTON

May 5, 2015

Mr. Nihad Awad
Executive Director
Council on American-Islamic Relations
453 New Jersey Avenue, SE
Washington, DC 20003

Dear Mr. Awad:

Thank you for your recent letter regarding the inclusion of the Council on American-Islamic Relations (CAIR) on the UAE's recent list of groups designated as terrorist entities.

Let me reiterate, first, that the U.S. government clearly does not consider CAIR to be a terrorist organization. As your letter noted, the Department of State rejected this allegation immediately after the UAE designations were announced in November, and we will continue to do so.

The UAE is a close and respected partner to the United States on many issues, but even close partners occasionally disagree. U.S. officials have raised the issue of CAIR's inclusion on the UAE's terror list with UAE officials on multiple occasions, and we continue to encourage the UAE to review closely any requests for de-listing. We hope to work with the UAE government as it refines its process for identifying terror organizations and for de-listing groups that don't merit inclusion.

I can assure you the Department of State will continue to engage the UAE government with the goal of finding a positive resolution to this issue.

Sincerely,

John F. Kerry

Exhibit K

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION
Case No: 4:26-cv-521-AW-MAF

CAIR-FOUNDATION, INC. and,
CAIR-FLORIDA, INC.,

Plaintiffs

v.

RON DESANTIS, *et al.*,

Defendants.

Tallahassee, Florida
October 28, 2026
1:51 - 4:32 p.m.
Pages 1-115

TRANSCRIPT OF HEARING ON PLAINTIFFS'
EMERGENCY MOTION FOR INJUNCTIVE RELIEF
BEFORE THE HONORABLE ALLEN C. WINSOR
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiffs:

American Civil Liberties Union
By: Ashley Gorski, Esq.
By: Hina Shamsi, Esq.
By: Charles Hogle, Esq.
By: Celin Carlo-Gonzalez, Esq.
125 Broad Street
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New York, New York 10004

ACLU Foundation of Florida, Inc.
By: Daniel Tilley, Esq.
4343 West Flagler Street
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Miami, Florida 33134

Bondurant, Mixson & Elmore
By: Manoj Varghese, Esq.
1201 W. Peachtree Street NW
Suite 3900 - One Atlanta Center
Atlanta, Georgia 30309

APPEARANCES:

For the Plaintiffs (continued):

Southern Poverty Law Center
By: Mary Ella Simmons, Esq.
201 St. Charles Avenue
Suite 2000
New Orleans, Louisiana 70170

Southern Poverty Law Center
By: Scott McCoy, Esq.
400 Washington Avenue
Montgomery, Alabama 36104

For the Defendants:

Cooper & Kirk, PLLC
By: Charles Cooper, Esq.
By: John Ramer, Esq.
By: Riley Walters, Esq.
1523 New Hampshire Avenue, NW
Washington, DC 20036

Florida Attorney General's Office
By: David Dewhirst, Esq.
By: Tyler Gustafson, Esq.
PL-01 The Capitol
Tallahassee, Florida 32399

Executive Office of the Governor
By: David Axelman, Esq.
209 The Capitol - 400 S
Tallahassee, Florida 32399

Reported by: Dawn M. Savino, RPR, CRR
Official United States Court Reporter
111 North Adams Street
Tallahassee, Florida 32301
(850) 521-3674
Certifiedreportinginc@gmail.com

PROCEEDINGS RECORDED BY FEDERAL OFFICIAL COURT STENOGRAPHER
TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION

1:52 (Court called to order)

1:52 THE COURT: Good afternoon, everyone. Have a seat.

1:52 All right. Well, welcome to the Northern District of Florida. We're here in CAIR versus DeSantis, 4:26-cv-521.

1:52 Why don't we start with appearances. And just whoever is going to be lead for each side, if you'll just introduce yourself and everyone with you and I'll make sure I've got my chart here right.

1:52 MS. GORSKI: Good afternoon, Your Honor. Ashley Gorski for plaintiffs. I'm here at counsel table with Hina Shamsi, Charles Hogle and Celin Carlo-Gonzalez.

1:52 THE COURT: Okay. Good afternoon to all of you.

1:52 And for the defense?

1:52 MR. COOPER: Good afternoon, Your Honor. Charles Cooper for the defendants with Cooper and Kirk. And with the Court's permission I'll allow my colleagues to introduce themselves.

1:52 THE COURT: Okay.

1:53 MR. RAMER: Good afternoon, Your Honor. John Ramer also with Cooper and Kirk.

1:53 MR. WALTERS: Good afternoon, Your Honor. Riley Walters also with Cooper and Kirk.

1:53 MR. DEWHIRST: Good afternoon. David Dewhirst with the state of Florida.

1:53 THE COURT: Okay.

1:53 MR. GUSTAFSON: Good afternoon. Tyler, with the state of Florida, Gustafson.

THE COURT: Okay.

MR. AXELMAN: And David Axelman from the governor's office.

THE COURT: Okay. Well, very good.

Well, Ms. Gorski, are you handling the argument for the plaintiffs?

MS. GORSKI: Yes, Your Honor.

THE COURT: Okay. The floor's yours. If you'll come to the lectern there.

MS. GORSKI: Good afternoon, Your Honor. Ashley Gorski for plaintiffs CAIR and CAIR-Florida. Several of plaintiff's leaders are here with us in the gallery today.

This case concerns an unprecedented state law, the first of its kind in the nation. Florida officials have designated two long-standing American nonprofits as domestic terrorist organizations. Plaintiffs are part of the fabric of American civil society, and Florida's designations are already burdening their protected speech and association.

Beginning November 5th it will be impossible for plaintiffs to continue operating in the state given the felony exposure that they, their board members, their employees, their volunteers and supporters will face in the absence of judicial intervention.

1:54 The question today is whether Florida officials can do this unilaterally; can suppress the speech and association without the constitutional protections that ordinarily apply when the government seeks to burden these rights.

And if I may, Your Honor, I would like to start with the First Amendment right to association.

THE COURT: That's fine. I do think it would be helpful to have an understanding of if this is facial or as-applied. There was some disagreement in the briefs, I guess, about which this was, and I know you're seeking preliminary injunctive relief on only a handful of counts and I don't know if you have the same position on each of those for facial versus as-applied. But what is the answer to that?

MS. GORSKI: Well, Your Honor, it varies by claim. With the First Amendment association claim, it is an as-applied claim. It is also a facial claim insofar as the DTO regime applies to expressive organizations like plaintiffs.

THE COURT: I'm sorry. Say that again. The First Amendment association claim?

MS. GORSKI: Association claim as applied, and then a quasi-facial insofar as it applies to expressive organizations. So theoretically you could imagine a DTO regime that is focused on corporate entities that don't engage in expression, that would be outside the purview of the challenge here.

THE COURT: Okay.

MS. GORSKI: And then for plaintiffs' prior restraint argument, that is facial and as-applied.

And for plaintiffs' content and viewpoint discrimination, that is a claim that is -- it's as applied to speech. It is also quasi-facial, but really it is an as-applied challenge at its core with respect to a subset of the DTO regime divisions.

And then for due process, the criminal punishment argument is a facial and as-applied one, and the Matthews argument is quasi-facial as applied to US corporations, and then also as applied to plaintiffs.

So to be very clear, because I think the point of confusion in the briefs was whether all of these claims are being brought on an as-applied basis, and the answer to that question is yes.

THE COURT: Okay. But to the extent you're bringing facial claims, and you are to some of these, and you're bringing what you're calling quasi-facial to others, what you're challenging facially is what? The whole House Bill or what?

MS. GORSKI: The DTO regime, as we have defined it in the papers, which is not the whole House Bill, it's the provisions applying to domestic organizations; and then a subset of those provisions that apply to domestic organizations. There are other provisions that are not at

issue in this case given the defendants in this case and plaintiffs' standing.

THE COURT: Okay. I know you use the term DTO regime, and it's defined in places to use other shorthands. But is it in the complaint where you identify -- in other words, if you succeed with everything you're asking for now, the Court would declare what is unconstitutional? I know you said the DTO regime, but is that defined in the complaint?

MS. GORSKI: It is defined both in the complaint and in the motion, Your Honor. And I'm happy to pull those citations.

THE COURT: Okay. Maybe one of your colleagues can do it and you can point it to me in rebuttal. But there was some confusion with me as I went through all that.

But anyway, I've gotten you off track. So go ahead.

MS. GORSKI: No, not at all. Starting with the First Amendment associational claim, plaintiffs' work, their advocacy, their public education, their pro bono litigation, their community organizing, all falls within the heartland of the First Amendment, and Florida's designation will not merely have some incidental activities. They will end plaintiffs' protected associations in Florida.

And defendants argue here, as an initial matter, that the First Amendment is not implicated at all because the state, it says, is regulating conduct rather than expression. But

that runs headlong into the expressive association precedents. Cases like Boy Scouts of America V Dale where the Supreme Court applied heightened scrutiny, not just intermediate scrutiny, to a New Jersey public accommodations law because of the direct and immediate effect on associational rights. Again, courts look at the effect, they look at the burden.

Bates V Little Rock. Court applied heightened scrutiny to a municipal tax ordinance that regulates conduct, but the court looked at the burden.

NAACP v Button, similar. Virginia wanted to regulate solicitation, it had an interest in regulating solicitation. The court applied heightened scrutiny because of the burden on the NAACP's associational rights.

So it's clear here that there is a very significant burden on plaintiffs' associational rights, and the Court should go on to apply exacting scrutiny.

Now, defendants in their papers emphasize this idea that the DTO regime does not punish mere membership in an organization because of the way that their regulation has supplemented one of the statutory provisions. But mere membership is absolutely burdened here. Mere association is burdened in this case, because plaintiffs will be forced to shut down. That eliminates all of their associations, including their simple ones. And even more importantly the First Amendment protects more than mere association. And the

court made that clear in --

THE COURT: Can I ask you a question about that though? I mean, the fact that it would force them to shut down, one of the overall issues I have is, sort of, there's some overlap between your due process and the First Amendment.

But if we accept it as stipulated, and I know you don't, and you're disputing that it's a terrorist organization; but if the state of Florida shut down a terrorist organization because it was a terrorist organization, then you'd have the same association claim, right? I mean, the same thing you just said is the association would be shut down because the organization is shut down. How would that analysis work?

MS. GORSKI: Under this regime, plaintiffs would still have their First Amendment claims because defendants would not be proving in a court of law that plaintiffs are terrorist organizations. And the First Amendment is very concerned about procedure. Bantam Books make this clear. Part of why the court found a prior restraint in Bantam Books was the absence of procedure and the fact that the commission there was overlaid, superimposed on criminal laws that already existed.

And so given the First Amendment's concerns with procedure and the absence of procedure here, I think in this situation, even if there were a stipulation that plaintiffs were a terrorist organization, we still have First Amendment claims. And the Supreme Court's precedence --

2:01 THE COURT: No, no. Not that -- I'm saying if the state of Florida said we are going to shut you down because you are a terrorist organization --

MS. GORSKI: Hmm-hmm.

THE COURT: -- and then the claim was well, you can't shut me down because that would infringe on my association, what would the analysis there be? Does it depend on your process arguments?

MS. GORSKI: I think that it does depend on the process arguments, because Florida, of course, there are always laws on the books that criminalize terrorism. If Florida were to prosecute plaintiffs pursuant to one of those laws, meet its burden, establish beyond a reasonable doubt that plaintiffs were guilty of terrorism, in that situation it's an ordinary criminal law. I don't think -- it either -- you could say under Arcara it doesn't trigger First Amendment scrutiny, or you could say -- I think another way of thinking about the problem is that the scrutiny is satisfied. Everyone appreciates that that is an operation of ordinary criminal law with appropriate process.

But the First Amendment does care about process. And here, because there is an inadequate process, the First Amendment comes into play because of the nature of the burden. So this is different from operation of an ordinary civil penalty or an ordinary criminal penalty because it's a very

2:02 novel scheme where executive officials wield so much power to subject organizations to these debilitating criminal liabilities.

So Your Honor, I just -- I also want to underscore though too, that the right of association here, it goes beyond simple association. And the Supreme Court made that clear in Button and in Americans for Prosperity Foundation which postdated humanitarian law project and reiterates that the right to expressive association includes donations for expressive purposes.

And there's one point about this case I do want to underscore for the Court. Justice Roberts in AFP observed that the amicus briefs in that case came from organizations spanning the ideological spectrum. From the ACLU to the Proposition 8 legal defense fund; from the counsel on American-Islamic Relations to the Zionist Organization of America. The deterrent effect feared by these organizations is real and pervasive. And this is from 2021.

The allegations that Florida has put forward in this case had been in circulation for years. It is very difficult to imagine that Justice Roberts would have specifically highlighted an amicus brief from a terrorist organization. And, of course, the reality is the plaintiffs are not, as the sworn declarations before you, attest.

THE COURT: But you're not asking me to make a ruling

at this stage on that, right?

MS. GORSKI: The Court could find for plaintiffs and enter an injunction for plaintiffs without making a ruling on that question. I think that question could, in theory, be relevant to a scrutiny analysis, but I think absolutely --

THE COURT: How would it be relevant to a scrutiny analysis?

MS. GORSKI: I think in assessing the nature of the tailoring potentially, if the Court were to find for plaintiffs, it makes abundantly clear that because plaintiffs are not a terrorist organization, shutting down all of their speech is disproportionate. If the Court were to conclude that the record shows that plaintiffs are a terrorist organization, then I think the analysis looks a little different. I think cases like Scales and Noto acknowledge that domestic organizations may have illegal and legal aims, and suppressing them altogether still presents First Amendment problems.

So I don't think it would be the end of the inquiry, even if the Court were to conclude that this record shows that plaintiffs are terrorists, but again, that's preposterous given the record before the Court.

THE COURT: I don't think they're asking me to make that finding. As I read the briefs -- I mean, both sides took their position, but I didn't view that to be a disputed issue for this stage of things. But maybe the parties' view it

differently.

MS. GORSKI: No, Your Honor. I don't think that the Court needs to resolve that question at this stage. If it were interested in considering these facts further, of course plaintiffs have submitted a 2015 letter from the secretary of state to CAIR stating the US Government clearly does not believe that CAIR is a terrorist organization. The only sworn evidence before you is from our clients saying they do not engage in terrorist activity.

And I would also point the Court to the reports from our expert, Mr. Jason Blazakis, a former state department official responsible for federal terrorism designations. He lead aggressive efforts to designate Hamas. He said based on his experience there has been absolutely no basis to designate CAIR, and if there had been any basis he would have known about it. And that's at ECF 6-5132 and 180. But again, I don't think the Court has to resolve this question at this stage in order to grant plaintiffs relief.

So moving on, Your Honor, if there are no further questions on association, I would like to talk a bit about our prior restraint claim. So the statutory scheme here is a prior restraint for the same reason that the commission in the scheme in Bantam Books was. It functions as an executive suppression of speech with inadequate process, and it results in prospective restrictions because of the two-step nature of the

DTO regime. It is different from a situation where an organization has already completed a criminal act and is subject to criminal prosecution. Instead, it's forward-looking, it's prospective, because executive officers get to pick and choose which organizations they want to subject to unique, debilitating and forward-looking liabilities. And those are restraints ultimately on their speech and association. They are converting lawful, protected speech and association into criminal speech and association, and they're doing it without judicial review.

THE COURT: The speech being the support, I mean that falls into that?

MS. GORSKI: Well, Your Honor, there's a lot of speech at issue here because these organizations engage in a tremendous amount of First Amendment-protected speech, so it's not just support from their employees, but the Criminal Gang Protection Act directly imposes liability on plaintiffs as well by defining them as criminal gangs. And so then under Section 874.10, plaintiffs are forbidden under pain of life imprisonment or felony liability, they are forbidden from initiating activity in furtherance of their interests. So that prohibition also sweeps in a lot of speech, as do the material support.

THE COURT: Those are the two provisions that you would say restrict the speech? The gang piece that you just

went over, and then the "you can't provide material support to a terrorist organization"?

MS. GORSKI: Most directly by criminalizing the speech, and that's why we've raised those two provisions with the content and viewpoint discrimination claim.

THE COURT: But those are two provisions that you would say criminalize speech.

MS. GORSKI: Those are the two provisions that directly criminalize speech. However, the regime as a whole and the designations punish and suppress speech and association more broadly through their stigmatizing effects, through the various ways in which they make association penalized. So it is --

THE COURT: But they make association penalized through those two criminal provisions that you just went over?

MS. GORSKI: Those are the primary ones.

THE COURT: Are there other ones? I ask because it wasn't clear to me. There's a lot of -- you said a lot there, including the stigmatizing effect of these, and I'll have some questions about that.

But in terms of where it says to your employees, or people who want to support your employees, "you will be committing a crime if you do the following," which you say includes speech and I think to some extent does, those are the two provisions.

MS. GORSKI: There is also a provision that criminalizes membership which the state has tried to amend through regulation to say it doesn't criminalize mere membership. Plaintiffs are not membership organizations. However, I think there is still a risk that the state could say a board member qualifies as a member under this provision. So I would still say for the purposes of the standing analysis, that plaintiffs would have standing to challenge that provision, but it doesn't operate as directly as the material support and CGPA provision to suppress protected speech.

THE COURT: And on the material support, part of that is funding, and you would say that a donor wanting to donate to your organization, that would be speech? Is that part of the claim?

MS. GORSKI: I think the focus is on the fact that a donor wanting to donate is engaged in an expressive act of association primarily. I think there are situations if a donor wants to donate and they want that donation to fund a billboard or, like, directly support speech, that donation could also be a form of speech.

But the concern here is that the way that all of these interlocking provisions operate together, they just shut the organization down entirely. So it's less about protecting a right to donation here and a related right to issue press releases there, and instead about the entire landscape which is

that these are civil society organizations that engage in public advocacy, that petition government officials, that issue press releases, that engage in pro bono legal representation. And all of that will be shut down by operation of this scheme.

And I do want --

THE COURT: I understand what you're saying. I guess that's where I'm focused on where the speech is. And your, sort of, top-line point is we will be shut down, and I understand that, and it's a novel scheme, and I understand that. And I know it's a disputed issue whether your clients are terrorist organizations.

But I guess my question, which is sort of what I asked before, is if there is a finding, through procedures that you think are appropriate, that they are a criminal terrorist organization, and the state says we're going to shut down this organization because it is a criminal organization, doesn't that end your case? I mean, there's no First Amendment problem with shutting down a terrorist organization that exists, correct?

MS. GORSKI: I would disagree with that statement. I mean, one, there's -- we have our criminal punishment claim. So the process --

THE COURT: No I understand.

MS. GORSKI: Of course. But is there a First Amendment problem. I think when it's a domestic organization,

yes. I think when it's a domestic organization, yes, because you have to ensure that the procedures are extraordinarily rigorous. The procedures that would be available in a criminal trial, because it is criminal punishment. And short of those procedures, I do think that there is a First Amendment problem and --

THE COURT: The shutting down is a criminal punishment?

MS. GORSKI: Shutting down the organization?

THE COURT: Hmm-hmm.

MS. GORSKI: Under this scheme, it's a criminal -- and I'm happy to talk about criminal punishment.

THE COURT: Well, we'll get there.

MS. GORSKI: Yeah. I think shutting down an organization is not inherently a criminal punishment itself because, of course --

THE COURT: Right.

MS. GORSKI: -- it can happen in a civil context. But I think that punishment paired with the many other factors here create a situation in which what's happening constitutes criminal punishment, and the protections of a criminal proceeding would apply. But again, short of that, I do think that there are First Amendment implications.

And I want to flag, again, the Supreme Court's decisions in Scales and Noto which refer to organizations that

have lawful and unlawful aims. And again here, plaintiffs have no unlawful aims. But even if they did, the court recognized that if you were to suppress all association with those domestic organizations, it would present a First Amendment danger. And so can the government do this? Yes, pursuant to ordinary criminal laws and ordinary criminal process.

And if the Court is not inclined to accept that the standard has to be quite that high, I would still point the Court to the Friedman procedures. So because this is a prior restraint, plaintiffs are at least entitled to the protections set forth in Friedman. And that means that defendants have the burden of going to court, not the plaintiff; there has to be a judicial decision within a fixed period of time, we don't have that here, and there has to be a speech protective status quo.

I do want to briefly go back to the Court's question about how the provisions operate here. There are other provisions in the CGPA that create liability for plaintiffs and people associated with plaintiffs, including one that limits electronic communications advertising plaintiffs' presence in the community. There are far-reaching prohibitions, but I think the broadest ones, and the ones that are the centerpiece of our motion, are 775.33 and 874.10. But I just want to be clear that we are absolutely challenging the other provisions that we have set forth in the complaint and in the motion that we've defined as the DTO regime.

THE COURT: Okay. But the designation then would cover some things that you're not challenging, right? I mean, that's the point they make, and they argue about what the relief would be. But I guess if the relief were, you know, the state attorneys can't prosecute under the particular statutes for certain categories of conduct that you're talking about as speech, then that would get you there, right?

MS. GORSKI: It would not, Your Honor, because of a couple of factors. One is the public nuisance statute. And we are challenging that as well. So because the designation has been published, if the designation is not rescinded, what is going to happen starting November 5th is that any member of the public in a county where plaintiffs are operating will be able to bring a suit to enjoin plaintiffs' activity, will be able to shut them down because plaintiffs' activity will, per se, be a public nuisance. So that is also something that is suppressing plaintiffs' speech, even though it's not the two statutes we've been discussing. And that's why rescission and removal of the designation is necessary for plaintiffs to have complete relief. And I appreciate defendants' point that it also means there will be some other provisions that won't go into effect if the designation is rescinded, but here --

THE COURT: Other than the nuisance provision, what would be the difference between what I just went over in terms of enjoining certain prosecutions and directing them to rescind

it?

MS. GORSKI: The stigmatization of the publicization of plaintiffs' status as terrorist organizations. And here, I would refer the Court to our supplemental declaration which describes how a student association, following the vote on designation, disassociated from CAIR. Cancelled the event where CAIR-Florida was going to speak citing the political climate, and then explaining it was because of the designation.

So in order to alleviate that stigma and burden, we are asking the Court to undo the designation.

THE COURT: Would you have a claim if, instead of this designation and this statute had never been enacted, the cabinet just did a resolution saying we think CAIR is a terrorist organization and we, you know, condone them? I mean, it seems like it would be the same stigma, right? The student organization you're talking about is not operating based on the legal effect of anything if you're saying your claim is stigma.

MS. GORSKI: I think stigma is part of it. I think they're also concerned about the legal effect because the event was scheduled for after November 5th. So I think it's a combination of --

THE COURT: But that would be resolved if -- you know, I guess the injunction that they're saying would be sufficient would fix that.

MS. GORSKI: Would fix the legal consequence. But

stigma and the political climate was absolutely -- that is what was cited in the email was the political climate. It is the stigma of the designation.

THE COURT: What's your best case, Supreme Court or Eleventh Circuit case, that would say that the stigma would be redressable through ordering them to revoke the designation?

MS. GORSKI: Well, Your Honor, I don't have one for stigma specifically, but we do cite in our briefs several cases that say on a preliminary injunction the court can restore the status quo ante without applying the heightened standard that would apply to a mandatory injunction. So even if the court's order requires the defendants to take some active step, that the court would just apply the normal preliminary injunction analysis because the Court would be doing it in the service of restoring the status quo ante, which these cases define as the last peaceable status between the parties.

Now, those cases, I don't think, grapple with stigma specifically. In the context of due process, of course, there is a stigma plus doctrine where if a litigant or a plaintiff points to stigma and an additional harm, that can be a deprivation for due process purposes.

So on prior restraint, even if the court didn't apply the prior restraint label or the Friedman procedures, the Section 943 here still vests too much discretion in state officials to shut down civil society organizations. And here I

would point the court to Bell V City of Winter Park. This an Eleventh Circuit decision. The court in that case did not describe the restraint at issue as a prior restraint, but it still applied the unbridled discretion doctrine to conclude that a loitering ordinance was unconstitutional because it empowered private citizens to exclude others within a 50-foot radius of their property, and they could enlist the police to enforce it. It is very similar to the nuisance statute here. The court said this is unbridled discretion, and it gives private citizens too much power to enforce the law.

And then on prior restraint, I would also note if the court has some skepticism about this label, because this technically is not a licensing regime, although we do think the licensing cases are analogous and speak to important considerations related to executive censorship that are relevant here. But if the court is skeptical, I do want to point it to a decision that we did not cite in our briefs but it's from Judge Kozinski of the Ninth Circuit and four other Ninth Circuit judges. And they endorse the argument that the federal designation scheme imposes a prior restraint and Friedman procedures should apply. But it is a dissent from a denial of rehearing en banc. That's United States V Afshari, 446 F.3d 915, and that's from 2006. So it's not a left-field proposition here that the prior restraint doctrine should apply in this context.

THE COURT: But that's never been recognized in the context of that dissent would say it should have been, right?

MS. GORSKI: It should have been, but none of the cases that defendants cite discuss it. I don't think that this argument has been raised. I haven't exhaustively searched all the briefs in all those cases, but certainly none of the court's analyses grapple with this element of the way in which speech is being suppressed.

THE COURT: Do you think it's because in this context it's not pure speech in the way that so many of the other cases that you cite are? I mean, you have a situation where they say you can't provide material support, which typically would not be considered speech, and there are some aspects that may be it would be and you talk about some of those. But the prior restraint cases seem like they're about pure expression for the most part.

MS. GORSKI: It's a good point, Your Honor. I think in those cases there is a focus on the material support statute, and Florida's scheme is different because of the criminal gang provision as well, and because it so directly prevents plaintiffs from initiating activity in furtherance of their interests. So the restriction is even more sweeping. I think that's a factor.

And, you know, I would note that the Court in Healy V James characterized a restraint on association as a prior

restraint. So the doctrine is not limited to speech, it also applies to association.

But I think regardless of whether the court is inclined to characterize the restrictions here as a prior restraint, the punishment shuts down too much lawful speech and association.

THE COURT: Do you see any scenario where you would lose on your other First Amendment claims but then win on prior restraint?

MS. GORSKI: Frankly, Your Honor, it is difficult because I think the association claim is very straightforward. There is just no world in which this regime satisfies exacting scrutiny, and certainly not as applied to plaintiffs on the record before you. But if, you know --

THE COURT: What's different about this record? Is it because of how weak you would say the evidence was supporting the designation? I mean, what would put you in a different situation than someone else who you would say -- who faced the same designation, but you would look at and say gosh, they had the same process problems that we faced but seems like they kind of are a terrorist organization. Would it be applied to them differently?

MS. GORSKI: I think the associational claim, the analysis could be different and in ways that you see in some of the federal designation cases where the organization's primary

2:22 interest seems to be donating money abroad. Which, again, does
2:22 the First Amendment -- is there a First Amendment liberty
2:22 interest in that for an organization that the domestic? Yes
2:22 but does that liberty interest look anything like the liberty
2:22 interest here? No, it's different, like, given the depth and
2:22 the breadth and the volume of speech the plaintiffs engage in.
2:22 And so I could see a situation -- and just throwing
2:22 back to the First Amendment claim and tailoring, where an
2:22 organization that is primarily engaged in sending money abroad,
2:22 it's difficult for the state to restrain activity that has been
2:22 proven unlawful in a court of law. But it's difficult for a
2:22 state to restrain that without shutting down the whole
2:22 organization.
2:22 But here, again, plaintiffs aren't engaged in any
2:22 illegal activity. And even in a world in which the court were
2:22 inclined to conclude otherwise, they engage in such an enormous
2:23 volume of clearly protected speech and association that there
2:23 has to be a more tailored way to deal with that illegal
2:23 activity. And the most tailored way to deal with it or, I
2:23 think, even under intermediate scrutiny, an appropriate way to
2:23 deal with it is the criminal law.
2:23 And McCullen V Coakley makes this clear. We cite this
2:23 in our papers. This is a Supreme Court decision involving
2:23 buffer zones around abortion clinics. And the court there was
2:23 applying an immediate scrutiny, but in its tailoring analysis

it heavily emphasized the fact that those buffer zones imposed First Amendment restrictions, and they were not tailored because the criminal law adequately addressed most of what Massachusetts said it was concerned about. Massachusetts said we're concerned about congestion in front of abortion clinics. And Supreme Court said there are a lot of criminal laws on the books that deal with harassment, obstruction of people trying to enter abortion clinics, and for that reason this broad brush effort where you're saying no one can be in this buffer zone is not appropriately tailored. So I think that is an important analog for the tailoring analysis here.

But to your original question about whether we would prevail on prior restraint and not the other First Amendment arguments; prior restraint, it's very straightforward. It's a structural defect that just exists. The Friedman protections aren't there. I read defendants to be saying that if the court construed this as a prior restraint, the Friedman protections should apply. There's not a dispute about that. They just dispute that the prior restraint label should apply.

THE COURT: Would it be -- is it a partial prior restraint, or are you saying everything they do is a partial restraint? Because certainly the law would include things that you would agree with not speech, right?

MS. GORSKI: I think in this context what the law is prohibiting, it's speech and association. And because the

prior restraint doctrine applies to association as well, I think what's encompassed by the law is domestic association. I'm not -- right now I'm struggling to come up with something that would be outside the bounds of domestic association. I mean, I guess, like, the provision -- the material support provision, if it involves like actual provision of weapons, you know, that probably isn't protected domestic association. But beyond that, it operates to shut plaintiffs down.

THE COURT: Okay. What is the -- there's a dispute about whether every designated organization is a criminal gang under the law, it's a statutory construction issue, I guess, and you each have your different views about what applies there. But how does the -- in the non-terrorist organization context, how are, in Florida, criminal gangs designated? Is that just through an individual criminal case where someone would prove someone was a criminal gang, or are they designated elsewhere?

MS. GORSKI: We've looked for this, Your Honor. We haven't been able to find any published list of criminal gangs and, of course, in the definition there's a reference to terrorist organizations, transnational crime organizations and hate groups. We haven't found an official list beyond the terrorist organization list.

So, yes. Generally speaking, if Florida wants to punish someone as a criminal gang member, they have to prove

the elements of the criminal gang definition which include the group of three or more people, and also the fact that one of the gang's primary activities is the commission of criminal acts. And I think it is very clear, just as a matter of plain text and grammar and the rule of punctuation, that what is happening in 874.03 and the definition of criminal gang is that terrorist organizations refers back to organization as modified by all of the intervening text. So, yeah. Happy to --

THE COURT: Yeah, you may be right in terms of what the ultimate answer is on the definition of criminal gang, but I do not agree with you that it's very clear and straightforward. It's hard for me to understand why, if it's the way you say it is, they wouldn't just say criminal gang means you know either, A, domestic terrorist organization or B, and then goes on to say everything else it said.

I also don't know why, if it means what they say it means, they wouldn't have made it clear. It's just not a clear provision to me.

MS. GORSKI: That's fair, Your Honor, and I didn't mean to overstate the clarity. But what I was thinking of is clear really is the grammatical rule that applies here, which is the fact that there is a comma before "including." And what that means is that the "including" refers back to both clauses, not just the last. And I take -- defendants' argument was a little unclear on this front as well, but they seem to be

saying that "including" modified the last clause. It is possible that defendants are saying --

THE COURT: Well, I think that is what they're saying. But I think they're saying that just because you're a -- I think their argument is that just because you're a terrorist organization doesn't mean you can't also be a criminal gang, but you'd have to meet all those other qualifications. Otherwise we'd be in a situation where, by law, every terrorist organization had to have three or more people, right?

MS. GORSKI: Well, Your Honor, I think that is how -- I think that is how that definition section is designed to -- how it is constructed is saying terrorist organizations, by definition here, satisfy that they are constitutionally criminal gangs. They -- including "terrorist organizations" refers back to organizations at the beginning, but as modified but all of the intervening text. So the three or more persons and the primary activity prong.

I would say, though, that even on defendants' interpretation, the DTO regime is still criminalizing essentially all of plaintiffs' activity because, by definition, plaintiffs will have as one of their primary activities the commission of criminal acts. And just to make this really concrete, because there wasn't space to spell all of this out; if plaintiffs continue to operate in Florida, one of their primary activities is going to be working with personnel under

the material support statute, 775.33. Personnel are prohibited, under 775.33, and plaintiffs themselves could face direct liability in connection with solicitation of personnel, conspiracy to have personnel. And so I think even on defendants' interpretation plaintiffs, by definition, are criminal gangs.

THE COURT: Okay. It's, I guess, a little bit circular, right? That they are committing crimes -- well, I think I understand what you're saying.

MS. GORSKI: It's not totally circular because I'm saying --

THE COURT: You're right. It's not.

MS. GORSKI: -- with reference to material support statute. Exactly.

THE COURT: Okay.

MS. GORSKI: So, yeah. With reference to the material support statute, one of their primary activities will be working with personnel and that, in itself, is a crime now under the DTO regime.

THE COURT: But the criminal gang designation doesn't substantially affect your claim one way or the other, right? I mean, it heightens the penalties and it, I guess, broadens what would be prohibited. But you would say you would be completely shut down even if --

MS. GORSKI: Yes.

THE COURT: -- everyone agreed you were not a criminal gang, and your association claim basically is that, that you would be completely shut down.

MS. GORSKI: Yes.

THE COURT: Okay.

MS. GORSKI: Yes, Your Honor.

I also wanted to highlight the fact that plaintiffs have challenged portions of the DTO regime as content and viewpoint discriminatory as applied to speech specifically, including speech in furtherance of this lawsuit. Liability under 874.10 will turn on the message conveyed by the speech, and specifically whether the speech is intended to further the interests of plaintiffs. So speech by plaintiffs, speech by their employees, board members, volunteers that advances plaintiffs' interest is subject to criminal prosecution. Speech opposing those interests is not. And that is discrimination on the basis of the content and viewpoint of the speech.

THE COURT: That's part of your Count 1?

MS. GORSKI: Yes.

THE COURT: Okay.

MS. GORSKI: That is in Count 1. I can pull it to get the paragraph numbers if that's helpful.

THE COURT: And I did find your footnote, by the way, about this definition of the DTO regime. So I had seen that,

but lost sight of it there.

MS. GORSKI: So 215, and then all through Count 1, but also 220 specifies the burdens on the basis of content and viewpoint.

THE COURT: Okay.

MS. GORSKI: Similarly, 775.33 prohibits the provision of speech as a service to plaintiffs, including speech from personnel. So everyone plaintiff is associating with in terms of employees, board members, et cetera. And it also prohibits expert speech from employees and board members, and we've explained that plaintiffs will be unable to benefit from the expertise of communications experts, advocacy specialists and attorneys on staff, so that burdens plaintiffs' right to receive information.

If there are no further questions on the First Amendment right now, I'm happy to move on to criminal punishment.

THE COURT: Okay. That will be fine.

MS. GORSKI: Okay. So under Hudson, the court first has to assess whether the legislature expressly or impliedly indicated a preference for a civil or criminal label, and here there are a few factors that involve criminal labels, express criminal labels.

So first, to designate an organization, executive officers are necessarily making a finding that the organization

violated criminal law. That's a little different from the federal regime where that can be a finding, but it's not the only path to designation.

THE COURT: That's not -- I mean, you've said the whole regime here is novel, and it is. But having civil processes that take into account whether there's been a criminal action is not novel at all, right? I mean, you have doctors disciplined for committing crimes, things like that, pretty routinely.

MS. GORSKI: I think in a situation like that, Your Honor, the doctor has already been through the criminal justice system.

THE COURT: Not necessarily.

MS. GORSKI: Not necessarily?

THE COURT: No, he wouldn't. He or she certainly would not have to be, and part of the reason they might not be is because of the higher burden of proof and things like that. It's pretty common. People get sued all the time for crimes committed against them with -- sometimes when the prosecutors won't prosecute them because the burden of proof is so high.

MS. GORSKI: And very, very fair. And we do not mean to suggest that sanctions are criminally punitive as defendants say, simply because the conduct for which they are imposed is criminal in nature. This statute is a little different in that executive officials are explicitly finding a violation of a

criminal statute. So they're not just pointing to a fraud or nefarious conduct or, you know, a crime in the abstract, but they are having to make a finding about a violation of criminal law specifically. But I appreciate your point.

THE COURT: The Bar does that when they try and disbar people all the time.

MS. GORSKI: All right. I appreciate that alone is not going to establish criminal punishment here. But there are other factors as well. And I think here, the Criminal Gang Prevention Act, the fact that the plaintiffs are defined as criminal gangs, or an element of the definition of criminal gangs is satisfied, very different from the federal regime and highly unusual. Again, indicates a preference for a criminal label.

And then third, the statute is in the part of the Florida Statutes titled Criminal Procedure and Corrections. I appreciate that is not dispositive under Smith, but it is another relevant factor here.

And if that were not enough, the other Mendoza-Martinez factors, almost all of them make plain that this is criminal punishment. And we walked through that in the brief, and be happy to talk about any of those. But designation is predicated on a finding of scienter, among other factors.

And at bottom, this process is designed to

short-circuit a criminal process. Again, plenty of statutes on the books that criminalize terrorism, aiding and abetting, conspiracy, and those statutes are the way to properly address these crimes. This is just designed to give the state an opportunity to do an end run around basic criminal protections.

THE COURT: What do you say to their argument about the federal regime works very similarly, and your argument would mean that that's invalid too. And, I guess, maybe some people think that the federal one is invalid. You've said in the reply, you know, courts noted that congress has different interests when they're dealing with foreign affairs and things like that, but that seemed like that was in the First Amendment context and not in this due process piece of things.

I mean, certainly one of your arguments is when you prosecute someone the government doesn't have to prove that the terrorist organization was a terrorist organization. That's consistent with the federal regime, right?

MS. GORSKI: When you prosecute someone -- oh, yes.

THE COURT: If an American citizen were prosecuted for providing material assistance to a foreign terrorist organization, all the jury would jury would have to find is the secretary of state, or whomever makes the designation, made the designation, right? You wouldn't relitigate whether they actually committed terrorism. You certainly wouldn't hold the government to proving that beyond a reasonable doubt in the

criminal prosecution, right?

MS. GORSKI: That is my understanding. Again, plaintiffs wouldn't concede that that should be the law, but that is my understanding of how those prosecutions proceed.

And to your question more generally about why these cases are distinguishable, I think it does differ based on the claims. I'm happy to start with the due process claims. You know, with respect to criminal punishment, I flagged --

THE COURT: That's what we're talking about, just the criminal punishment aspect. It seems like if you're right, then a lot of things are happening inconsistent with the law every day throughout the country.

And I will say just -- I do think it's a very difficult argument you're making that to designate an entity as a criminal organization would require all the criminal due process protections: Jury, proof beyond a reasonable doubt, and all those things. I think that's a tough argument, and I've not seen a case with facts even remotely similar to this that would say that.

MS. GORSKI: Well, Your Honor, what I can say is that at a minimum, more process is required under Matthews, and there are good reasons for distinguishing the federal FTO SDGT cases with respect to due process.

And the first, as you note, is that the federal designation programs, as we've explained, they're rooted in

2:38 uniquely federal powers, powers over foreign policy and
2:38 international commerce. And I think that is fundamentally --
2:38 it fundamentally distinguishes the cases cited by defendants
2:38 because it speaks to the nature of the government interest.
2:38 THE COURT: But does that affect whether someone is
2:39 entitled to criminal prosecution? I mean, someone that is an
2:39 actual terrorist still gets a jury trial, right? I mean,
2:39 notwithstanding all those same interests that you're talking
2:39 about. Congress couldn't say well, in the interest of foreign
2:39 affairs and national security we're going to say that you get a
2:39 three-person jury and preponderance if you're a foreign
2:39 terrorist, right?
2:39 MS. GORSKI: Your Honor, I think just thinking about
2:39 this in the context of the Matthews claim, you know,
2:39 appreciating the skepticism about the criminal punishment
2:39 argument, plaintiffs would urge the court to apply more due
2:39 process even, you know, if the court is analyzing this as a
2:39 civil question. And plaintiffs wish to underscore the fact
2:39 that the cases involving the process due in the federal
2:39 designation scheme should not control here for a number of
2:39 reasons. They are certainly distinguishable. And plaintiffs
2:39 aren't conceding the validity of the reasoning in any of those
2:39 cases, but they are also very distinguishable on their facts.
2:40 Lower courts have been extremely sensitive to the
2:40 federal government's prerogatives with respect to foreign

affairs and classification, and that has caused them, in the due process analysis where they're looking at the government interest, to be more deferential to the executive branch in considering the process due.

And to highlight just one example from the Ninth Circuit's HLP decision, the court said it owed the executive branch more latitude than in the domestic context because the regulation involved foreign affairs, and the high degree of deference to executive designation was a necessary concomitant of the foreign affairs power. Obviously Florida doesn't have the foreign affairs power to rely on here.

And similar statements from the DC Circuit in Islamic-American Relief Agency saying the review is extremely deferential because of national security and foreign policy concerns. Similar statements in NCRI and in Holy Land Foundation.

And then with respect to the actual process due to the organizations, courts have upheld the executive's ability to withhold classified information because the classification power, of course, is rooted in the president's power as commander in chief. Nothing comparable here that allows Florida to withhold information from plaintiffs about the nature of the designation or the reasons for the designation.

And then just more generally the due process analysis, of course, is context specific, and the court has to look at

the nature of plaintiffs' claims. And plaintiffs' claims here, their First Amendment liberty interests, set this case apart from the liberty interests in cases like Holy Land Foundation or Islamic-American Relief Agency. Because, again, plaintiffs are not looking to send money abroad. They're looking to engage in domestic association. And the records in a lot of these cases, very different from the record here, involve, for example, organizations that admittedly engaged in terrorism or are, you know, admittedly branches of an SDGT. It's just not the situation here. And all of those factors affected the lower court's analyses of how much process is due.

THE COURT: The statute here does say you can go to state court. You know, the law in the circuit is you can't have a due process claim without showing that the state procedures are inadequate. I know you've pointed out there's not a hard deadline in the statute for a circuit court to rule. There's not an explanation about what the burden of proof is, and we don't know what would have happened with those. But you have the burden of showing that that was inadequate. And can you meet that burden by just speculating about, you know, that you might not have gotten a timely hearing?

MS. GORSKI: Yes, Your Honor. The state court procedure is constitutionally inadequate, and plaintiffs' claim is not based on the speculation about the bias of the decision-maker, or similar speculation that I know has been a

problem in other Eleventh Circuit cases. In state court we are denied discovery. We're denied an opportunity to examine witnesses. The review of agency fact-finding is deferential, and it is not clear that we can bring every constitutional claim, like a facial First Amendment claim, in the context of this administrative appeal. And we, of course --

THE COURT: It's not clear that you can't though, right?

MS. GORSKI: Yeah.

THE COURT: You have the burden of showing that it would be inadequate.

MS. GORSKI: What is clear is that we are denied discovery, an opportunity to examine witnesses which, given the nature of the interests at stake here, due process requires those under Supreme Court precedent. And just to briefly go back to that, three Supreme Court cases require more than what the state has provided here.

THE COURT: Which case requires discovery?

MS. GORSKI: Well --

THE COURT: You don't even get discovery in federal criminal trials where real liberty is at --

MS. GORSKI: That is true. You don't get discovery in a federal criminal trial. That was an overstatement on my part. But I will say that Jenkins clearly requires the ability to examine and cross-examine witnesses, and defendants do not

even address Jenkins in their brief. And the law at issue there was very similar to the law here where a state administrative body was empowered to make factual findings that individuals had violated criminal law and to publicly brand them as criminals. Very similar. And it was pre-Matthews, but I think the way the court was considering that question, it absolutely harmonizes with how Matthews approaches the issue, and it said that there has to be an opportunity to examine witnesses. We don't have that here.

THE COURT: And we don't have that here because you're assuming that it would be treated as an administrative appeal based -- under the regular 120, or -- which then wouldn't go to circuit court anyway I guess. But what are you basing the assumption that you wouldn't have the ability to cross-examine witnesses on?

MS. GORSKI: Our understanding is that the way the statute has set this up as -- it calls it an appeal, it is in circuit court, but that the rule of Florida procedure that defendants have cited in their brief says the way this appeal operates is that it is an administrative appeal, and under City of Deerfield Beach the review is for substantial competent evidence, and the review is limited to the administrative record. And I'm happy to pull citations on that if that's helpful.

THE COURT: No, I know they cited -- I guess both

sides cited the appellate rule, but a regular 120 proceeding would not go to circuit court. But, I guess, this would be treated like an appeal from a county board of commissioners zoning decision or something like that, is that what you're saying it would be akin to?

MS. GORSKI: In candor, Your Honor, I am not an expert on Florida procedure. We have done -- we have looked into this and consulted, and our understanding is that the statute is pretty different from some of the county board statutes. And some of these other statutes that have appeals in circuit court specified that review is de novo, and this statute does not specify that.

THE COURT: Right. Either way. One option would have been to assert everything there and, you know, maybe if there were constitutional problems the circuit court could have resolved those. I'm not saying you had to. This is not a ruling, but it -- first, you know, the statute says it won't go into effect for 30 days, you can go into circuit court, you can appeal. Sometimes appeals involve testimony, things like that. Not in the traditional -- not in the most common type, I guess. But it's unclear to me what the drafters had in mind or what the statute would actually entitle you to.

MS. GORSKI: Our understanding was that because the statute calls this an appeal, and because the regulation reader -- you know, that this is an appeal, that our rights in state

court are limited. And, you know, with ordinary appeals, again, not an opportunity to supplement and expand the record. And the standard of review is also too deferential. So I think, again, under Jenkins there's a problem with the state court procedure. Is there anything else you want to add on the state court procedure?

THE COURT: Jenkins would support the idea that it has to be de novo?

MS. GORSKI: Jenkins would certainly support the idea that we can -- we're entitled to cross-examine witnesses as part of this designation.

THE COURT: Okay.

MS. GORSKI: And there are two other cases that support our argument that the process here is inadequate. One is James Daniel Good and the other is Barry v Barchi. And defendants have tried to minimize those cases by saying well, in those cases the court found constitutional defects with the hearing because the hearing was post-deprivation. But I think plaintiffs are misapprehending the nature of the First Amendment harms here. The deprivation has already started. The deprivation started in the summer when there was a first notice of intent, and it has continued up until now. The deprivation is ongoing, and we cite several examples of this. The student group canceling the event where CAIR-Florida was supposed to speak.

2:48 THE COURT: So you're saying -- I know there was a disagreement about whether this really is pre-deprivation, but I thought you were basing that on the idea that you wouldn't get a timely circuit court order.

You're saying even if the statute said you can go to circuit court within 30 days, it won't become effective for 30 days, you'll get de novo review, you can cross-examine witnesses, you can have discovery; that it would still be insufficient process because the deprivation occurred when they first proposed the designation?

MS. GORSKI: Not just first proposed, but also the designation was made before judicial review. And, yes. So it would be inadequate for that reason. I think also in your hypothetical there wasn't a date certain for a judicial opinion.

THE COURT: In my hypothetical I meant for there to be. So you would say if the legislature amended the statute and said here's what happens, the FDLE commissioner makes a recommendation, the cabinet acts on it. When the cabinet approves it, it's a nothing burger for 30 days during which you can go in and have all the protections you're talking about and a guaranteed completed judicial review within 30 days. You would say there's still a due process problem? I didn't understand your brief to be saying that.

MS. GORSKI: Again, the plaintiffs would say there's

still a due process problem. There is also still a Friedman problem in that under Friedman the state should bear the burden of going to court as opposed to plaintiffs.

THE COURT: Okay. But put that aside, what would the due process problem be?

MS. GORSKI: Again, I think that the post-designation appeal is constitutionally inadequate. So what would be appropriate is instead for the state to notify plaintiffs not to have a public vote on designation where then it's broadcast to the entire world that the state is designating plaintiffs, but for the state to notify plaintiffs about an intent to designate, and at that juncture for the state to present its evidence and then for the state to initiate judicial proceedings in which the state bears the burden of proof to suppress plaintiffs' speech and association.

THE COURT: Before they announce that they're going to seek this designation?

MS. GORSKI: I think in an ideal world --

THE COURT: Well, I'm talking about in a due process compliant world, not ideal. You know, in this state a state attorney can just charge someone with a life offense, right? With one signature. And then the person gets due process after it's been announced. And so I just didn't understand your argument to be that they would have to do all that before they could even suggest to the world that they think you are a

terrorist organization.

MS. GORSKI: Again, we think James Daniel Good and Barry V Barchi cannot be so easily set aside on the ground that in those cases --

THE COURT: But there were actual deprivations in both of those, correct?

MS. GORSKI: Yes, and there are actual deprivations here as well, Your Honor, of First Amendment rights, by virtue of the designation.

THE COURT: But virtue of the announcement that that's what they're going to try to do?

MS. GORSKI: By virtue of the designation, yes. The announcement and then the designation itself where it's voted and confirmed.

THE COURT: But that's back to your stigma piece? I mean, if they just said we're going to designate you but we're not taking any actions, but we just want the world to know that we, the cabinet of the state of Florida, think you're a terrorist organization and we condemn you up and down, that you would come in here with a 1983 action saying I had to order them to take it back?

MS. GORSKI: Your Honor, if that resulted in stigma plus. I think the due process cases are clear that stigma can be --

THE COURT: What's the "plus" before the 30 days is

up?

MS. GORSKI: Well here, the plaintiffs' relationships with donors, for example, have been harmed as well, right? So there's monetary harm. One of plaintiffs' -- the IT provider refused to continue to provide IT services after the first announcement based on a risk assessment. Plaintiffs had to find a new IT provider, putting their cybersecurity at risk. The new IT provider costs more. There's been a loss of donations. There are many plus factors here.

THE COURT: Okay. One follow-up on the state procedures. Even if you don't get cross-examination, wouldn't one of the things the circuit court would look at is due process, whether you got due process on the front end and then you can say we didn't because of all the things you're saying to me?

MS. GORSKI: Yes, Your Honor. Our understanding is that the court would look at whether we got due process. But again, our understanding of the standard of review is highly deferential. And that in this context --

THE COURT: On due process or on the substantial evidence?

MS. GORSKI: Certainly with respect to agency factual findings.

THE COURT: Right. But, I mean, in terms of -- if you're right that you're entitled to -- as a matter of due

process you're entitled to all the things you're saying you're entitled to, you're not saying a state circuit court would defer to the cabinet's position on what due process they owed to you, or are you?

MS. GORSKI: I don't believe so. I don't believe I am.

THE COURT: Okay.

MS. GORSKI: But again, you know, the case law in the Eleventh Circuit concerning adequate remedies and due process, you know, it doesn't say that the process due in state court is categorically adequate in every circumstance. And here, again, given the nature of the deprivation --

THE COURT: But is there any instance where the Eleventh Circuit has said yes, this plaintiff had an opportunity to go to state court and appeal this decision but we still find that that's constitutionally inadequate and so they can bring their 1983 action?

MS. GORSKI: Your Honor, I'm not sure offhand about an Eleventh Circuit case, but the Supreme Court in Barry V Barchi, there a plaintiff brought, I think it was a 1983 claim, without having exhausted state administrative remedies.

THE COURT: Well, that's a different thing. I mean, it's clear you do not have to exhaust state remedies as a matter of law under 1983.

MS. GORSKI: Yes.

THE COURT: You made that point in the reply, and they're not arguing otherwise, I don't think. We'll hear in a minute. Their argument is when your actual claim is a violation of due process, you have to show that the state provided inadequate process.

MS. GORSKI: Yeah.

THE COURT: And my question is -- I'm not saying it couldn't exist, but are there cases where there's a very generic statutory regime that's been undeveloped in Florida law -- or state law, because it's brand new, that just says you can come to court -- you can come to our state courts and challenge this decision, and it's not going to go into effect for 30 days and, you know, you can do it then. Are there decisions that would be helpful to you in that regard? I know you've cited a couple where they just -- there were pre -- there was a pre-hearing deprivation, and that part of the criticism of the post-deprivation hearing was that it wasn't quick enough. Is there anything quite like this that you can think of?

MS. GORSKI: I think beyond Jenkins, James Daniel Good and Barry --

MR. HOGLE: Those are the most on-point cases.

MS. GORSKI: That's what we've got.

THE COURT: Okay. Fair enough.

Let me look at my notes here. If you've something else I'll let you say it, but I wanted to look at my notes and

see if I had any other questions for you. I will give you rebuttal as well. Thank you.

MS. GORSKI: Thank you very much.

MR. COOPER: Good afternoon, again.

THE COURT: Good afternoon.

MR. COOPER: Chief Judge. Charles Cooper for the defendants.

With the Court's permission my colleague, Mr. Ramer, and I plan to divide the presentation to the Court.

THE COURT: Okay. Is it First Amendment and due process? Is that how you're doing it?

MR. COOPER: That's exactly how we're going to do it, but it was our plan for us to present the due process argument first, same order in which they briefed the case.

THE COURT: Sure.

MR. COOPER: If that's all right with you.

THE COURT: Yes, sir. That will be fine.

MR. COOPER: Very well.

Your Honor, first I want to open by describing the context in which the chief of domestic security prepared the notice of intent, and the governor and the cabinet reviewed the findings and the evidence and the basis that supported the recommendation that CAIR be designated as a domestic terrorist organization. And I want to provide that context by quoting what the Supreme Court has said about terrorist front groups,

and Hamas in particular. Terrorist groups systemically conceal their activities behind charitable, social and political fronts. Hamas, in particular, is able to use its overt political and charitable organizations as a financial and logistical support network for its terrorist operation. That's from the Holder case, Your Honor.

Now my friend, Ms. Gorski, both here today and in their briefing, have described CAIR as a benign charitable civil rights organization. It is Florida's view that CAIR is Hamas's largest overt political and charitable front organization.

THE COURT: But you're not asking me to decide that at this stage, right?

MR. COOPER: We are not. We do not understand that to be something that is before you. I am simply trying to make you aware that, contrary to counsel's representations and perspective, there's ample evidence on which the designation has been based. Not only that CAIR is a front organization for Hamas, and the Muslim Brotherhood for that matter, but it is a co-conspirator in Hamas's terrorist activities. And that was found or at least --

THE COURT: Alleged.

MR. COOPER: Well, it was alleged. The Department of Justice -- counsel said there's no evidence at all in this record. This evidence has ample evidence, Your Honor.

2:59 THE COURT: I don't think -- their due process is not that there was no evidence, it's that they didn't get the protections that they --

2:59 MR. COOPER: That's certainly true but, you know, once again, there is a judicial finding from the Holy Land Foundation prosecution where the Department of Justice alleged and charged that CAIR is a co-conspirator, an unindicted co-conspirator. And the court in that case said there was ample evidence to support the Justice Department's allegations of that association.

3:00 With respect to what --

3:00 THE COURT: How does that relate to their arguments here?

3:00 MR. COOPER: Your Honor --

3:00 THE COURT: All they're saying is they need an opportunity to contest all that. You don't get that if you're an unindicted co-conspirator in a criminal case, right? You didn't get to do go in and say I didn't do these things. And they're saying here they should have had that opportunity.

3:00 MR. COOPER: Well, in that case they did go in, and the court did listen to their arguments, the same -- very similar ones they're making here, and concluded that -- the court concluded it would not, as CAIR had requested, strike CAIR from everything in the record of that court because it felt that and concluded that the evidence was ample to support

the Department of Justice's naming CAIR in those papers.

But, Your Honor, there's no dispute before you. This is for the circuit court of Leon County if and when CAIR takes up the opportunity to challenge this designation on an appeal to the circuit court, and I'll come back to that.

But let me open with what I take to be their Matthews due process claim I think it's been termed. And my overarching point here, Your Honor, is that their due process arguments have all been rejected multiple times by the federal cases analyzing due process arguments, just like the ones that are being offered here today against the federal designation regime. Those federal laws are materially indistinguishable from the Florida law. In fact, the Florida law was modeled after and mirrors the federal provisions in all the material respects that are at issue here.

So Your Honor, if the Florida designation regime, as they call it, falls, then all those cases are wrong. And so does the federal regime as well. The leading case, Your Honor, I would submit is the National Council of Resistance to Iran, otherwise known as NCIR. And that was a case in which two foreign organizations challenged their designations as Florida terrorist organizations by the secretary of state. And they were arguing that they were entitled to pre-designation due process of an evidentiary hearing, a trial-like hearing before a neutral judicial officer, complete with witness introduction

and evidentiary introduction and cross-examination. The DC Circuit concluded that yes, under Matthews -- and the case deals with Matthews page after page, Your Honor -- that due process was required, and that the statute did not accord any pre-designation due process. But that process, in this context, was notice, meaningful notice to be heard, and an opportunity, meaningful opportunity to be heard, and to produce rebuttal evidence pre-designation. And, Your Honor, they rejected the additional due process requirements and procedures that counsel is saying that the constitution entitles them to here pre-designation. And that's before we get to their claim that designation is itself a criminal conviction. I'll come back to that.

And, Your Honor, in that case, the court said that those foreign organizations, because they have a presence in the United States, and because they had property, a bank account in the United States, we're entitled to full due process in the Matthews sense. In the flexible sense that tailored -- due process tailored to the situation that was before the court. And again, that was notice and opportunity to be heard. That decision has been reaffirmed over and over, Your Honor, by court of appeals cases.

The Holy Land Foundation case against Ashcroft. The Al-Haramain case in the Ninth Circuit. People's Mojahedin, another DC Circuit case. All of them have said opportunity,

notice and opportunity to be heard. Nothing more. And, Your Honor, these cases can be distinguished on the notion that the federal government was there exercising its unique powers over foreign affairs and foreign policy. There's no support for that with respect to due process as opposed to the First Amendment passages from those cases that my friend for CAIR cites. They did reference due process modifications, I guess, that could occur because of those considerations. For example, they might designate without any notice if to provide notice would prejudice the interests of the United States. But that was not the case there, and it's certainly not the case here.

So the fact that the federal government has those unique foreign policy interests at stake has nothing to do with the kind of due process that a designated entity is entitled to before designation.

THE COURT: Are they entitled to the judicial review afterwards? I mean, the statute gives it, but are they entitled to that or was that --

MR. COOPER: Well, the statute gives it to them. I am happy to concede that the constitution may well entitle them to it. But they're not entitled to any more judicial review than they would be if Secretary of State Rubio had designated them as a terrorist organization. And the federal statute sets out very plainly what type of review is available there, and it's basically standard APA review. And that's what they get here,

Your Honor.

THE COURT: Is that what they get? They said that the circuit court review is basically Florida's APA that applies or --

MR. COOPER: Well, they have to go to the Second Circuit court.

THE COURT: Right.

MR. COOPER: Excuse me, in Leon County. And challenge it there.

THE COURT: What does that challenge look like? Is it based on the administrative record? Can they call witnesses?

MR. COOPER: Your Honor, our position is it's based on the administrative record.

THE COURT: Okay.

MR. COOPER: Yes. And so in other words it has the same attributes, and I think the Florida statute contemplates that it will have the same features as a normal review of an administrative decision on an appeal to the circuit court.

THE COURT: Okay. So it would be deference on the evidence, but then on the due process would there be any deference? They could raise due process issues?

MR. COOPER: Yes. Yes, Your Honor. Of course. That is a traditional feature of the administrative review by the circuit courts of administrative action. So yes, they could do that. And at such time as they have done that, if they

continue to have a concern about the due process that they got, they can come back here, as you were suggesting, I think, in your colloquy with Ms. Gorski.

Your Honor, let me turn to the, I think, more remarkable proposition which is that the designation of any organization as a DTO is a criminal conviction by another name.

THE COURT: Before you turn to that, could I ask one or two more questions on the way the circuit court review would work?

MR. COOPER: Hmm-hmm.

THE COURT: What's your response to their point that the statute doesn't have a guarantee that they would get a timely answer?

MR. COOPER: That they get what?

THE COURT: That they would get a timely answer. So they have a 30-day, kind of, grace period where they can go into circuit court, and they say well, there's not a guarantee that the circuit judge will get to it.

MR. COOPER: Well, that's true. There's no guarantees, Your Honor. In the federal system there's a prohibition against preliminary injunction relief. You can't get it at all. The only way you can offset a federal designation is to get a final judgment that it was, for example, not supported by substantial competent evidence. You can't get preliminary relief. They can -- there's no

prohibition on preliminary relief in the circuit court, that I'm aware of anyway. So that -- they get more process there.

But one of the reasons for delaying the effective date under the regulation which implements the statute, we think implements the intent of the statute, even though it's not explicit, is to permit a designated entity to get to that Leon County circuit court and seek some type of preliminary relief if they can satisfy the standard requirements for preliminary relief. To be sure that's a tall order. But that's where they should be instead of here we would submit, Your Honor.

THE COURT: Okay. Yes, sir. Thank you.

You were going to talk now about the part two of their due process?

MR. COOPER: Well, as I say, they argue on the one hand that a designation as a DTO is a criminal conviction by another name subjecting them to criminal punishment without more. And yet they argue on the other hand, or at least they acknowledge on the other hand, that once an organization is designated as a DTO it can avoid prosecution, criminal prosecution, criminal conviction and criminal punishment if it ceases operations and it essentially exits the state. And only one of those propositions can be true, Your Honor. They can't both be. And the latter one is plainly true.

Now, Florida's designation laws, as I mentioned earlier, are modeled after and essentially mirror the

provisions, that are relevant to these proceedings, of federal law. And if, Your Honor they -- and yet this argument, essentially, is their Matthews argument, which has been rejected time and again by the federal courts, on steroids. They're saying not only do they get these additional civil due process protections that are not available under the federal statutes, but they get full Sixth Amendment criminal procedural protections: Indictment, confrontation, right to a jury trial, proof beyond a reasonable doubt.

Your Honor, the short answer to this argument is that if they are right -- and it's the same answer to their Matthews due process argument. If they are right about that, then these federal cases are all wrong and the federal statute must fall. It's just materially indistinguishable. Their arguments are indistinguishable from the ones that have been rejected against distinguishable federal provisions.

Now, it's true, as they say, that the federal cases mainly involved foreign organizations, and normally foreign organizations, if they had no presence here, if they had no property here, are entitled to no constitutional rights at all. No due process rights. But in these cases the court recognized that at least two foreign organizations that had a presence, had property here, were entitled to full due process protection. And two of the other cases dealt with domestic organizations. So there's just no -- there's nothing to the

concern.

I want to come to the criminal gang point, Your Honor. Terrorist organizations are not automatically and by definition criminal gangs. And I think the best way to do that, and I'm sorry that it's going to be a little bit of a slog, but look at the actual language of the statute itself.

THE COURT: I've got it here. It's not super clear you'll agree, right?

MR. COOPER: I agree that if we were sitting down to try to improve its clarity, we could do that. But, Your Honor, it defines a criminal gang with particular elements that must be satisfied. It has to be a formal or informal ongoing organization, association or group; it has to have one of its primary activities the commission of criminal or delinquent action, and it consists of three or more persons who have a common name or common identifying signs. Then it -- yes, there's a comma, and it says including, but not limited to, terrorist organizations, transnational crime organizations or hate groups.

Your Honor, the problem with their argument that terrorist organizations are, by definition, criminal gangs is that that would mean so also are, quote, hate groups. So also, Your Honor, are any other group that consists of three or more persons but -- with a common name, et cetera, et cetera. Any other group.

But let's just focus on hate groups for a moment. Hate group is defined to be an organization whose primary purpose -- and this is Subsection 7 -- primary purpose is to promote animosity, hostility and malice against a person or persons, or against the property of a person because of such person's race, religion, sexual orientation, et cetera. Your Honor, there are a lot of groups that would answer to that description that do not have as one of their primary activities the commission of crimes. And yet, according to the interpretation being offered to you of this language, every such group is a criminal gang subject to felony prosecution even if they have never engaged in any kind of criminal acts, let alone criminal acts as a primary -- among the primary activities of the group. In fact, one of the counsel on the other side, the Southern Poverty Law Center, has labeled the Alliance Defending Freedom, ADF, as a hate group.

THE COURT: Well, not based on this definition. Based on their own definition, not as a matter of Florida statutory law.

MR. COOPER: And I want occasion to add, I reject that, and I have to, because I've provided material support to that group and so I am a felon if, at least their view of what hate group is and it's automatically a criminal gang, is accurate.

THE COURT: What is a point of having "and hate

groups" here in sub one? To show that you could be both?

MR. COOPER: You could be a hate group, but in order to be a criminal gang you have to also satisfy these other requirements. And so if some nonviolent group that is organized around promoting animosity and hostility against other persons because of one of those characteristics, some perfectly nonviolent one, it would be, under their interpretation again, a criminal gang. Because it's mentioned along with terrorist organization.

THE COURT: Is CAIR a criminal gang?

MR. COOPER: Excuse me?

THE COURT: Is CAIR a criminal gang?

MR. COOPER: Yes. Yes, Your Honor, it is.

THE COURT: Then all of this is kind of beside the point for these purposes, right?

MR. COOPER: Well, I don't think it is for counsel's due process argument, but it is true.

THE COURT: Well, I'm not sure it makes much of a difference for the due process argument at all. I guess it would --

MR. COOPER: I don't think it does.

THE COURT: And I think it definitely doesn't now. If the state's position is they are a criminal gang, then it doesn't matter whether they are because of this reading of the definition or that reading of the definition, they just are.

3:19 1 And so to the extent it's relevant at all, I guess it would be
3:19 2 part of the Matthews balancing, and increases their
3:19 3 consequences a little bit and --
3:20 4 MR. COOPER: Well, you know, we believe they're not
3:20 5 only a terrorist organization, but also satisfy this separate
3:20 6 -- the separate criteria to also become a hate group.
3:20 7 THE COURT: Then why does it hurt your side if I agree
3:20 8 with them on the interpretation?
3:20 9 MR. COOPER: Your Honor, with respect to the
3:20 10 implications for this case, I don't think that it does.
3:20 11 THE COURT: Okay.
3:20 12 MR. COOPER: But --
3:20 13 THE COURT: It sounds like it would not, if everyone
3:20 14 agrees they are a criminal gang for purposes of -- I mean, they
3:20 15 don't agree with the underlying finding there, but they would
3:20 16 agree that, as a matter of Florida law based on the designation
3:20 17 and based on what you said, they are a criminal gang.
3:20 18 MR. COOPER: But they're arguing, Your Honor, that
3:20 19 just the designation itself as a terrorist organization makes
3:21 20 them a criminal gang. In other words, that is tantamount to a
3:21 21 de facto criminal conviction, and it's not. They're wrong
3:21 22 about that. And to the extent they're arguing, again, that
3:21 23 because a designation as a DTO is a de facto -- it's criminal
3:21 24 conviction by another name, a prosecution of CAIR for being --
3:21 25 let's say somebody provided material support to CAIR and

they're being prosecuted, they wouldn't be prosecuted for providing material support to a criminal gang. And CAIR, if it doesn't --

THE COURT: Why wouldn't they be?

MR. COOPER: Well, because the elements would have to also be separately charged and proved. And yes, we believe that CAIR satisfies those elements.

THE COURT: Oh, you're saying if an individual helped them with something and was charged, they could be separately charged for providing assistance to a DTO, and then separately be charged for providing assistance to a criminal gang. Is that what you're saying?

MR. COOPER: Well, I think they could. I don't recall if the criminal gang statute outlaws material support.

THE COURT: It does. Maybe not in so many words, but it does for advancing their cause, or something like that. There is a criminal prohibition to something along those line.

But you're saying if someone were charged with that and not with just providing material support to a DTO, then in the criminal prosecution related to the gang the state would have to prove -- there they would have to prove that CAIR was a gang.

MR. COOPER: Absolutely.

THE COURT: I see.

MR. COOPER: And they would have to prove that CAIR,

as we believe it does, satisfies all those criteria. All those elements of what a criminal gang is.

THE COURT: You would disagree with -- I think their point is the judge in that case would just tell the jury all you've got to find is they were designated as a DTO, which is basically undisputed, and then that would, as a matter of law, mean they're also a criminal gang. And you're saying you disagree with that.

MR. COOPER: That's exactly right, Your Honor. Thank you for --

THE COURT: But for this case it just doesn't matter, right?

MR. COOPER: Well, it matters to the extent that their argument for due process protections depends upon -- actually, their argument for Sixth Amendment criminal procedural protections depends upon your agreeing with the proposition that a designation is itself criminal conviction.

THE COURT: Right. But they would say their argument doesn't depend on that. That's what Ms. Gorski -- she and I talked about this, and I think her answer was basically whether they're a criminal gang or not they're out of business and that's the devastating reality -- that's the harm that is so severe that it would entitle them to a lot of protections under Matthews.

MR. COOPER: That's right. She cited the criminal

gang statute as supporting her claim.

THE COURT: Right. She said if you take that away, her claim is essentially -- I just don't see this as a big issue. Maybe I'm missing it.

MR. COOPER: I know when to recede, Your Honor.

THE COURT: Okay.

MR. COOPER. Your Honor, counsel developed the so-called Mendoza-Martinez factors for determining when a civil sanction, something intended by the legislature to be a civil sanction, is actually a penal -- a penal sanction. And there's really two dimensions to this. The first question is what did the legislature intend, and that's determined as a matter of statutory construction. Then if you conclude that the legislature intended that it was a civil sanction, it can -- then, applying these factors, it's possible to overcome that and say no, it is -- the consequences are so severe and so punitive, either in effect or in their purpose, that the legislature's preference that it be a civil sanction is negated.

On the statutory construction point here, Your Honor, it's, we would submit, very clear that the statute -- the statute itself, the text of the statute, makes clear that what the legislature intended was a civil sanction. The legislature's -- the text of the statute reads as follows: It was designed to ensure the safety of the state and the safety

of the residents of this state. Quite parallel to the federal language, Your Honor, which -- the language of which is that it seeks to protect against terror organizations that threaten the security against -- of US nationals, and the national security. So quite parallel there, and these are regulatory administrative protections against terrorist activity that threatens the safety of Florida residents under our statute; United States residents under the federal statute, Your Honor.

The law's structure also makes clear that this is a civil sanction. One of the most important elements of this is it does -- has the legislature vested the decision-making process and authority in an administrative body, and here it clearly has, FDLE, and with oversight by and approval authority by the governor and the cabinet. In keeping with that, the law requires that publication of the designation be in the Florida Administrative Register. So this is, in every respect, clearly an administrative regulatory process to protect present and future harms, not to punish past harms.

So looking now to the Mendoza-Martinez factors, and there's about six of them, Your Honor, and I'd like to identify each one.

Designations have not historically been viewed as criminal punishment as we know from the federal cases. All of the federal cases view this as a civil sanction. The Ninth Circuit's decision in Al-Haramain says this is a civil process

explicitly.

Two, designation does not impose an affirmative disability or restraint in the penal sense. Yes, the consequences are quite severe, we acknowledge that, of a designation. But it is, and I'm quoting now from the Hudson case, nothing approaching the infamous punishment of imprisonment. And so, Your Honor, I think a very useful analogy is provided by the Hudson case. That was a case, and Your Honor I think adverted to a similar situation. A case in which a banker had been debarred from the banking industry by the OCC, the comptroller of currency. He was later indicted for that same conduct, Your Honor, but those were severe circumstances but not penal. Not penal. Until the indictment.

It doesn't matter that the conduct underlying the civil sanction is also criminal, as we know from the Hudson case that I just mentioned. That is often the case with the doctor example that the court offered earlier. That is often the case.

It doesn't matter that the civil sanction deters, in much the same way, criminal prosecutions deter others. That's true of all civil sanctions. These are all points made in the Hudson case and the Smith against Doe case, Your Honor and, we believe, made clear that despite the arguments offered by our friends for CAIR make this clearly a civil sanction imposed under an administrative regulatory process.

3:30 1 And the final and most important element or factor is
3:31 2 that the designation serves a non-punitive regulatory purpose.
3:31 3 That is, as I mentioned earlier, the safety from ongoing
3:31 4 threats of terrorism, and the safety of Floridians in the
3:31 5 state.
3:31 6 And with that, Your Honor, I will turn it over to my
3:31 7 colleague unless this Court has additional questions.
3:31 8 THE COURT: That's fine. Thank you very much.
3:31 9 MR. RAMER: Good afternoon, Your Honor. John Ramer
3:31 10 also from Cooper and Kirk on behalf of defendants.
3:31 11 I'm going to address the First Amendment issues. I
3:31 12 think the theme of plaintiffs' First Amendment briefing is that
3:31 13 because they're organizations that engage in expressive
3:31 14 conduct, any regulation of them is necessarily a regulation of
3:32 15 expressive conduct. And that is not the law, and I think
3:32 16 Arcara is on all squares with this case. And in Arcara the
3:32 17 state shut down the bookstore because it was found to have been
3:32 18 hosting prostitution and other illegal activities. And what
3:32 19 the Supreme Court held was that even though the bookstore was
3:32 20 entirely shut down and thus prevented from engaging in its
3:32 21 expressive activity of selling books, that did not implicate
3:32 22 the First Amendment because the bookstore was shut down for --
3:32 23 it was regulated for nonexpressive conduct, for the illegal
3:32 24 conduct. And that's exactly what's going on here.
3:32 25 And a couple other points before I --

THE COURT: Is it one difference that there's more than that going on here? That it's not just shutting down the corporation, but it's also telling other citizens they can't provide certain things that I think could be speech?

I mean, your brief says they regulate conduct, and a lot of it is about what the conduct was that led to the designation. But there are prohibitions against people providing training and things like that, right, that would be speech, and that the Supreme Court has considered speech in the Holder case, for example.

MR. RAMER: So yes, Your Honor. So I will -- if we skip all the way down to particular provisions of the material support statute and the criminal gang statute, I will acknowledge that there are provisions of that that do regulate speech that constitutes material support. Before we get there, however, I do think that under Arcara, what's happening here is just -- is essentially the same as the closure. So I don't think we actually get down into the speech restriction because the reason for the regulation here -- or the reason for the regulation is the nonexpressive conduct.

In Holder, a large distinction is that you had third parties who were bringing those challenges. So when Your Honor mentioned other people who want to provide material support, they could well bring a Holder-style free speech claim, and then we'd run through we think we would satisfy strict scrutiny

for reasons we say in our brief. But here we are dealing with the organization that is actually being regulated. So in Holder --

THE COURT: Well, it's not just them. I mean, you are dealing with other people.

Is part of your argument that they can't challenge restrictions on other people's ability to speak to them?

MR. RAMER: So I think our argument is that the initial question has to be who is being regulated and for what reason. And in the context of a third-party who wants to donate money to CAIR, they are an individual who is being regulated because they want to engage in expressive activity.

But here, CAIR, the plaintiffs in the case -- we don't have a third-party. The plaintiffs in the case are being regulated because they engaged in the nonexpressive conduct of engaging in terrorist activity. And so that's why Holder is a different -- it's a different case because it's different people being regulated. And so we're in Arcara world rather than Holder world. And in Arcara world, we don't implement the First Amendment at all because we are regulating nonexpressive conduct. It's just like the --

THE COURT: You're not regulating -- I mean, you're regulating some speech. I thought you just said that, right? So the briefs sort of blend what led us here and what the consequences are. So your position is we're not punishing them

for their speech, or we're not taking action against them based on their speech, we're taking action against them because they committed terrorist offenses or supported terrorist offenses. I accept that that would not be speech, right? But then you look at what is the consequence of that. And at that point it doesn't really matter whether what got us to the consequence was speech or not because you still have First Amendment issues if you are regulating speech after that, right?

So I'm saying if, for example, you say based on your conduct -- based on your nonexpressive conduct that is sanctionable, we are going to say you can't speak in this way, that wouldn't work, right?

MR. RAMER: I think what Arcara says, if you are regulating nonexpressive conduct and it has a consequential decision on speech it still doesn't implicate the First Amendment. That's Arcara with respect to the organization.

THE COURT: Right. But the action that was being challenged was the shutting down the pornography store, right? And here what they're saying is, I think, two things. One, they're saying you are punishing us for speech. I mean, a big theme of the briefs, I think, is the retaliation piece that is not really part of this stage of things at all. I mean, I think all of the discussion about what the governor said at this point or what this Tweet said, all this goes to that and I don't think that has anything to do with the issues that are in

front of us right now.

But they're saying we were designated a terrorist organization, and now that that's happened you are saying you can't -- people can't associate with you, people can't speak to you in certain ways. And that's where they're saying the First Amendment piece comes in. That's my understanding of it.

And I think that's different than Arcara. It would be like saying, well, you are guilty of, you know, having prostitution in your store, and so from now on you can't, you know, write letters to the editor or something like that. That would not fly, and it wouldn't be well, we're regulating the prostitution which is not expressive, but the punishment is expressive.

MR. RAMER: Your Honor, I'll make one more point about Arcara and then I'll move on to application of Holder. I do think Arcara is the better analogue here than Holder because in Arcara the bookstore shut down. It can't engage in speech. They could not go into the store to sell their books, they couldn't do anything because it was shut down. And that's the same thing that's going on here. The organization is being regulated for nonexpressive conduct. And yes, it has an incidental effect on speech just as it did in Arcara.

THE COURT: But if the statute said once you're designated you're just shut down and you must go out of business, then I think you would be on good footing to say what

you're saying now. But here, the statute doesn't really -- I mean, it says they can be dissolved, I guess, but I don't know what that means, and in corporate law that don't exist at all. But there are separate prohibitions like the training. And I don't know what that would -- how that comes out, and it's a little -- that's why I asked what I did at the beginning about, you know, what's really at issue here. Because there's not a provision that says, you know, once you're designated you can't speak in that way explicitly. But it's in there saying they can't receive certain information. And I do think they would be able to -- I don't think there would be a standing problem, you could correct me if I'm wrong, if other people are prohibited from speaking to them.

MR. RAMER: I don't think there would be a standing problem. I'll move to Holder because I think that in Holder the court went through an analysis of the association claim and the speech claim.

On the association claim, Holder just flat-out holds that it didn't implicate association at all. Now, my friend made -- you know, stressed Scales, for example. Holder expressly distinguishes Scales. It says Scales was about regulating mere membership. But the federal material support statute did not regulate mere membership. And the same is true here. It does not regulate mere membership. In fact, there's a separate provision that explains the only time you can be

prosecuted for being a member is when you satisfy the Clayborn standard. And so what Holder held is we're not even in association world at all.

Now, on the speech side of Holder, Holder did say that there is speech that -- speech that can constitute material support, and therefore that's why we would have to apply strict scrutiny. And now, the same is true because, as my colleague, Mr. Cooper, said earlier, the same is true of Florida Statute. It's patterned on Holder, and so it is true that there is speech that can form material support that would be prohibited under the statute. And then for analyzing that speech, you would run through the application of strict scrutiny which, we think, for the reasons we explained, and as in Holder, we would survive -- we would survive strict scrutiny.

THE COURT: I thought you brief said strict scrutiny -- I know it says you would survive it. I thought your whole position was we would only apply to O'Brien scrutiny.

MR. RAMER: So that's -- I think, Your Honor -- first of all, our opening position is we're in Arcara. We're regulating nonexpressive conduct that incidently affects First Amendment activity, no scrutiny at all. To the extent there is some --

THE COURT: Let me just ask a follow-up on that, and I hate to keep interrupting you, but I just try to make sure I understand the position.

There is a provision that says people can't provide training to a DTO, correct?

MR. RAMER: Yes.

THE COURT: And that is basically the same provision that was at issue in Holder, and the Supreme Court rejected the idea that O'Brien would be would need the right scrutiny level, right?

MR. RAMER: Yes.

THE COURT: And so what would be the argument that if we were just looking at that provision, and we're not. And I think that's one of the troubles here is that they're looking at it from a very broad perspective and saying everything's association. And in Holder the court said hey, we're looking at specific applications of actual speech. But if we are looking at just the training provision -- and maybe that's not even at issue, and maybe they're not talking about that specifically. But what would be the argument that O'Brien would apply and not some higher level scrutiny?

MR. RAMER: I think this goes, again -- and I don't mean to be going back to this distinction, but I think it's the critical one between Holder and Arcara which is in Holder it was not the designated organization before the court. It was not the organization that was being regulated for nonexpressive conduct. In Arcara it was the entity that was being regulated for nonexpressive conduct. And so we think Arcara speaks to

3:42 the situations where if you had the Tamil Tigers in Holder who
3:42 came in and said hey, this actually restricts our First
3:42 Amendment rights, our right to train, et cetera, we think that
3:42 claim would be rejected under Arcara. The third parties, the
3:42 actual humanitarian law project, they have a speech claim,
3:42 they're not being regulated for nonexpressive conduct because
3:42 they're third parties, they weren't designated, therefore we
3:42 run through the strict scrutiny analysis for them.
3:42 THE COURT: Okay. That's not a standing argument,
3:42 correct? It's just a -- what is the argument that it's
3:42 different if the other people are here if it's not a standing
3:42 argument? I think the reason it would not be a standing
3:42 argument would be because you have the right to receive speech
3:42 as much as to make it, right?
3:42 MR. RAMER: Hmm-hmm.
3:42 THE COURT: And if that's why there is standing for
3:43 them to assert a challenge to the, you know, private people
3:43 can't provide training provision, that would be the reason why,
3:43 right?
3:43 MR. RAMER: I don't think they can assert the rights
3:43 of third parties. I'll say that now.
3:43 THE COURT: Okay. So then -- but they can assert
3:43 their own right to receive information from third parties who
3:43 would be prohibited?
3:43 MR. RAMER: In the context of this, yes. Just like

the bookstore in Arcara. People want to give them their books to sell, the bookstore wouldn't be able to say actually, you are violating the speech rights of the publisher because I'm not able to sell this -- I'm not able to sell this book. And then I think Arcara would reject that claim and say no, the reason you are in this situation is because you are being regulated for the nonexpressive conduct for hosting the prostitution and the illegal acts.

THE COURT: But the consequence of that has to be consistent with the First Amendment. The same way you couldn't tell someone you've been convicted of a crime so you can't, you know, write books, right?

I guess that's what I keep going back to. I'm trying to understand what your position is.

So if the statute just said -- the only thing the statute said was it's a crime to talk to somebody who works at a DTO. Okay? For a regular citizen to talk to them. And a regular citizen could come in and sue, and you say that would be strict scrutiny. But if the DTO itself sues and says we think that violates our First Amendment right to hear whatever that person has to say, your answer would either be -- well, what would your answer be?

MR. RAMER: So I think two responses. The frontline response, again, is Arcara which is that in rejecting the arguments in Arcara, the court held that it would prove far too

much to say that regulation of nonexpressive conduct triggers the First Amendment because of these other effects on First Amendment. Because people -- you know, somebody who is convicted of a crime and put in jail, they don't have the right to receive information from particular speakers that they want to talk to. Or somebody who has their building shut down as a result of the nuisance ordinance don't have the right to receive the books to sell there. So that's my frontline answer.

Now, I do think -- and I'll turn to this. I think this is where -- as an initial matter, as Holder makes clear, the material support statute criminalizes a lot of things that are not even remotely speech. So the only claim that's plausible here is a claim for speech under the material support statute. When you are in the world of you have speech that is prohibited under the material support statute, then I agree you would go through strict scrutiny.

THE COURT: Okay.

MR. RAMER: And under strict scrutiny you would have the -- first of all, the compelling government interest is indisputable. Then you would go through the tailoring. And under Holder, we think the regulation would survive.

And a couple points on this. First, Holder's tailoring analysis goes through three separate stages. The first stage relates to the fact that resources are fungible,

and I'll back up before I go into that.

The real question in Holder was whether the prohibition on material support was necessary because there's other ways to criminalizes this conduct, or you are punishing people who are send aid for legitimate resources, legitimate reasons. And so there, in Holder, was petitioning the UN and training, along those lines.

And what the court says is what congress found in its factual findings was that any material support, whether it's for good activities or bad activities, aids the terrorist activity. And in conducting -- the tailoring question was does that suffice, and the court concluded that it did by going through three steps.

The first step was where I was before which is that material support is fungible. Money is fungible. So material support going to one sector of the terrorist group helps the other sector of the terrorist group.

The second one was that material support lends legitimacy to the organization. We think these two rationales both equally apply here and equally apply in the domestic context, and the Ninth Circuit held as much in Al-Haramain.

Now, it is true that the third part of the tailoring analysis, Holder mentioned the implication for foreign affairs and things like that. But at no point did Holder suggest that the first two rationales were somehow illogical without the

3:47 third one, and I think the Ninth Circuit's decision confirms that. And I think a final important on this --

THE COURT: They left open, you know, whether it would apply in a different circumstance, right? I mean, that was very fact specific, and one of the facts that I think the court found specific was that this was not a domestic group.

MR. RAMER: So I think the Court reserved the question because it wasn't a domestic group before it for one. So I agree. I'm not saying Holder held that in the domestic context. But on the speech analysis it did reserve the question how it would cash out with respect to a domestic organization. I think Al-Haramain applied it to a domestic organization.

I also think it's important that when Florida adopted its material support statutes, it did so after Holder was decided. So it did so with the benefit of seeing the congressional findings, seeing how the court approached the congressional findings. And so we think the tailoring analysis would be the same here under strict scrutiny.

THE COURT: If you were about to say something, I won't interrupt you but I had a question slightly related.

MR. RAMER: No, please.

THE COURT: On the coercion claim, there wasn't a whole lot of talk about that to this point, but it was in the briefs.

In the other case that's on appeal, the preliminary injunction found there was likelihood of coercion and I know you-all disagreed with that and you said so in this brief, and there's an appeal from it. But if that legal analysis were correct, why would there not necessarily be basically the same conclusion on coercion in this case, if it is correct. And I'm not asking you to agree that it is, but if you just accept that premise.

MR. RAMER: So I think they're materially different cases for this reason, and coercion is not the correct lens to think about this case. What coercion is about is when the government is essentially laundering its regulation through a third-party to get to somebody else. And so in that case I believe it was withdrawing funds from -- I'm not counsel on that case, but I believe it was withdrawing funds from a podcast organization that was then --

THE COURT: You might be talking about a different -- I'm talking about the other CAIR case in this court.

MR. RAMER: Yes. That is that case.

THE COURT: Oh, I'm sorry. You're not counsel on that one? And that's the --

MR. RAMER: That's the other EO one. I'm not, the attorney general's office is.

But in any event, the point remains that -- and similarly in Vullo. Vullo was obviously a coercion claim, and

there what you had was the insurance regulator pressuring the insurance companies to then suppress the NRA's speech. Here we're just not in a coercion analysis at all.

THE COURT: What was the podcast thing you were talking about? Did you say podcast?

MR. RAMER: Yes. Yes. My understanding is that the way that the EO worked is that it withdrew public funding from anybody who did work with CAIR, and then this podcast company said well, we're not going -- we don't want to lose our funding, and so CAIR we're not going to host a podcast with you. And then CAIR was able to bring the claim, the podcast company -- I think CAIR was the party, the plaintiff in that case. And the reason CAIR was able to sue through the podcast company is because of this principle of coercion.

THE COURT: But that's the same claim they're making here, right?

MR. RAMER: I don't think so, Your Honor, because here we're regulating them directly. I think the issue in a coercion case --

THE COURT: No, but they're saying you're coercing other people not to do things with them by telling other people we will prosecute you if you do things to help them.

MR. RAMER: Right. And so a coercion case is saying you can't do indirectly what you cannot do directly. Here, we think we can do all this directly. And so the coercion

analysis doesn't map onto the circumstances of this case because we're applying a speech prohibition to them. And so they are -- "them" being the plaintiffs in this case.

And so as opposed to in a classic coercion case like Vullo, they weren't -- the government wasn't actually regulating NRA. And so the idea is NRA wouldn't be able to get into court to sue because they're not the ones being directly regulated.

But through the coercion analysis, NRA gets to come in and then assert a viewpoint discrimination claim. Same with the prior CAIR case where you have -- the funding limitation is operating on somebody else that then suppressed -- allegedly suppresses CAIR's speech.

THE COURT: Right. The pressure is on someone else, and that's what they're saying here. I mean, this is a coercion case in the sense that the plaintiffs are alleging there is First Amendment coercion, right? I mean, you may win on that issue but that's present in this case, right?

MR. RAMER: I mean, I think the First Amendment coercion is being applied directly to the plaintiffs which is why -- we're in a First Amendment analysis. I think the reason coercion is critical in these other cases is that before there would be a coercion analysis, you know, in New York the insurance commissioner would have said, like, I'm not doing anything to you, NRA.

THE COURT: Okay. Maybe I misunderstand their coercion argument. I'll ask Ms. Gorski about that on rebuttal and maybe give you a chance to respond.

MR. RAMER: Even if, even if what the material support provision does is effectively conducts -- effectively criminalize other people from offering material support to CAIR, I think we're just back where we were in the Holder analysis.

THE COURT: Yeah. That may be right, and I think that is probably true of the prior restraint piece too. I mean, they've got multiple different First Amendment claims, but I think it all sort of comes together maybe.

MR. RAMER: With respect to speech, yes. And again, I think it's important that there is many, many applications of these statutes that do not relate to speech.

Now, with respect to the prior restraint argument, I think the standard definition of a prior restraint is you are stopping speech before it occurs, which is distinct from punishment for past speech. And the Supreme Court has called that a time-honored distinction that it's going to recognize. And we're on the time-honored side of being punishment for past speech in that distinction, because what this law does is it -- after the designation, then it becomes criminal to offer material support. So no one's stopped from saying anything. Yes, if they say something they will be punished according to

the laws of Florida which is not a prior restraint, and because it's not a prior restraint, we're not -- we don't do an unbridled discretion analysis at all.

Now, I think even if the court were to do an unbridled discretion analysis, my friend raised this dissental from Judge Kozinski, but we have an actual majority opinion from Judge Kozinski where he said it was not excessive discretion for the secretary of the state to designate subject to the statutory constraints that are equally applicable here.

And another point is my friend tried to say that the prior restraint and unbridled discretion arguments are somehow not facial. I don't see how that can be possible because it either operates as a prior restraint or it doesn't. And so if they prevail on their legal argument, it will take the down the whole thing as a prior restraint. But again, it's not a prior restraint under the standard definition and so we're not analyzing for prior restraint or unbridled discretion.

Your Honor, just on association, we stick with first -- our first order argument is Arcara which is you're being regulated for nonexpressive conduct therefore we're not in the First Amendment at all.

Our second argument is Holder which said that the federal material support statute does not regulate mere membership and distinguished all the cases that they rely on.

And another case they rely on is Clayborn. And in our

brief we cited the Ninth Circuit's rejection of applying Clayborn to the federal material support statute. And in a footnote in, I believe, their reply, they say well, the Ninth Circuit misread Clayborn. Well, that would be news to the Supreme Court because they cited that exact page of the Ninth Circuit's decision to reject the Clayborn argument. So like, as in Holder, it doesn't regulate -- mere membership doesn't trigger the association clause.

THE COURT: They say they have an as-applied challenge -- this is in the reply brief -- to those two statutes that Ms. Gorski mentioned earlier, the 775.33 sub three, and 874.10, which I guess is the -- part of the criminal gang piece of things.

But on the 775 piece, they say they have employees they want to receive speech from. It sounds like you're saying if that were the whole case and you were unsuccessful on your top-line things, Arcara?

MR. RAMER: Yes, Your Honor.

THE COURT: That's the prostitution case? It sounds like then you're saying that would be strict scrutiny?

MR. RAMER: So I'll say two things. Yes, as applied to speech -- if you set Arcara to the side, as applied to speech you would go through strict scrutiny for Holder.

But I will also add that I think this particular question is entirely academic because as my friend pointed out,

under the material support statute also criminalizes personnel which is serving at the direction of the designated organization, which is what every employee does. And so we're here in a pre-enforcement challenge, and Your Honor is being asked to apply this statute to some complex speech claims that it's unclear why that would ever arise.

THE COURT: Why would what would ever arise?

MR. RAMER: Why the speech aspect of this would arise for their employees --

THE COURT: Because just being an employee would be a felony as of November 5th?

MR. RAMER: They would be providing personnel. They would be providing personnel.

THE COURT: The employee?

MR. RAMER: Under the statute. Yes.

THE COURT: Okay. So is the argument sort of no harm, no foul if we're also criminalizing speech because we're criminalizing just the mere continued employment?

MR. RAMER: No, Your Honor. So the argument is that we're here in a pre-enforcement challenge, and like Holder said, the Supreme Court was not going to engage in hypotheticals to run the gamut to figure out every single possible application, so it was only focusing on the specific things that arose. And in this context, if you leave out the pre-enforcement challenge, the designation goes into effect.

And if an employee continued working on behalf of the designated organization and then was prosecuted, it's unclear to see why they would ever be prosecuted for the training, for the speech, as opposed to just providing personnel.

And again, goes to this distinction between Holder in this case, where Holder is talking about parties outside the designated organization, and here we are dealing with the designated organization.

THE COURT: What about a nonemployee who is providing training or special knowledge or expertise, or whatever the statute says?

MR. RAMER: So I think then -- if it's somebody outside the organization, then you're dealing -- you're in Holder. That's what Holder is. It's people outside the organization who want to provide training to the designated organization, prohibition on speech, and then you would run through the strict scrutiny analysis.

THE COURT: So you can envision plenty of circumstances where strict scrutiny would apply to claims related to this regime.

MR. RAMER: No, Your Honor. I actually think that the vast majority of applications of this statute is just pure conduct. There will be -- yes, there may be some applications that apply to speech as Holder itself points out, but Holder also held that material support -- "most often" I think is the

quote the court used -- most often does not take the form of speech, and the same is true of this statute.

Now, all that is to say yes, there will be some speech that will be subject to the restrictions and then you would run through the strict scrutiny analysis that Holder did and conclude that it does indeed survive strict scrutiny.

THE COURT: Okay.

MR. RAMER: Let me just make sure, Your Honor.

I do want to touch on the remedy very briefly.

THE COURT: Oh, sure. Please.

MR. RAMER: Which is, as Your Honor knows well, Ex parte Young is a legal fiction that is an exception to sovereign immunity. And the scope is narrow, and the scope is limited to enjoining enforcement of statutes. And that's what the court is permitted to do through the judicial power. And what they are asking is the court to go beyond and to order the defendants to rescind the designation. So even if they get an injunction, which is all Ex parte Young entitles them to, against enforcement of all the statutes that they're seeking an injunction against, they want the court to go beyond and order the rescission of the designation. And, in our view, that does not fall into the nature of the anti-suit injunction that gave rise to the entire legal fiction of Ex parte Young, that is something beyond. That is beyond the judicial power with respect to sovereign immunity.

And then the last point --

THE COURT: And help me understand the argument. I mean, I know sometimes courts go beyond their authority by saying, you know, I strike the statute or I, you know, order the secretary of state to remove it from the books, and those are the cases that you're relying on, or that concept.

But there are also plenty of instances where an actual action, you know, putting something in place or taking something away would be appropriate relief. For example, if someone lost their medical license and then based on a First Amendment retaliation thing, I think the remedy would be -- it wouldn't be don't enforce this statute, it would be give him or her the license back, right?

MR. RAMER: Well, I actually think the return of the license would probably follow from the injunction against the -- whatever statute was used to revoke the license. If the injunction is you are not allowed to enforce that statute that led to the revocation against the plaintiff, that injunction would then lead necessarily to the plaintiff being able to engage in the same course of conduct that he or she was previously able to engage in.

THE COURT: The continued withholding of the license wouldn't be an ongoing violation of federal law that the court could remedy?

MR. RAMER: Well, no. I'm saying I don't think they

could continue withholding the license because of the injunction against enforcement of the statute. The reason -- on the hypothetical, as I understood it, it was that the government took the license through its enforcement of a statute for reason whether you violated some --

THE COURT: Right. Just any unconstitutional --

MR. RAMER: Yes. And then the injunction against that would necessarily insulate that particular plaintiff from any sort of subsequent proceeding for operating without a license or whatever --

THE COURT: Right. But couldn't it include requiring the Department of Health or whatever it is to vacate their order suspending the license? I mean, wouldn't that be sort of like what they're asking for here? I'm not saying they get it, I just don't think what they're asking for is really akin to asking a court to tell someone to remove a statute from the books.

MR. RAMER: So I think the second point about this is similar to the Whole Women's Health argument, which is one of the main issues that we understand the reason they're making this argument is respect to the private nuisance suits. But in Whole Women's Health that was a major dispute was who would you enjoin with respect to private nuisances, because people, you know, the relevant government officials didn't enforce the law with respect to those private nuisance suits.

4:03 THE COURT: Right. But here, the relevant government officials did put into place the document that would allow those nuisance suits. And I think what they're saying is order them to pull that document back.

4:04 MR. RAMER: And I think my response to that, Your Honor, is that under Ex parte Young, you're entitled to the injunction. You'll be safe and free from prosecution by the defendants in this case through the statutes that you are seeking to enjoin enforcement of.

But here, for example, if the court ordered the rescission of the designation, it would also amount to an injunction against defendants against enforcing the designation through statutes that they are not even challenging.

THE COURT: I understand that. But that's separate, I think, from what you're saying -- I think that's separate from what you're saying about the court can't do it. I mean, I think even if there were no aspect of the designation or the consequences of the designation that was not challenged, you would have the same position that you're taking now which is that the court doesn't have the authority to order the withdrawal of the designation.

MR. RAMER: I think that's what Ex parte Young teaches about sovereign immunity, which is that it's a narrow exception against enforcement of statutes that would violate, or regulations that violate your constitutional rights. And if

they receive the injunction against that enforcement, there's no judicial basis to go beyond and then order the rescission as well, under Ex parte Young.

THE COURT: Okay. For the First Amendment or for the due process. You're hinging all that on Ex parte Young.

MR. RAMER: Yes. Yes, Your Honor.

THE COURT: Okay. Thank you.

Ms. Gorski, I'll let you get situated, but have I misunderstood your coercion argument?

MS. GORSKI: No, not at all, Your Honor. Plaintiffs are regulated directly by the DTO regime, and also indirectly. And we have explained that. I mean, that is the thrust of the entire brief, that plaintiffs are directly penalized and their board members, their employees, their volunteers, their donors, people who would support them, people engaged in simple association with plaintiffs are also penalized as a result of this regime.

THE COURT: Penalized in a way that then their consequences would be coercive to your client?

MS. GORSKI: Yes, Your Honor.

THE COURT: Okay. So then I think I know the answer to this, but if the decision in the other case that's pending on appeal, if that were correct, then the same logic would apply here even though the facts are a little different. Is that right?

MS. GORSKI: If plaintiffs were to prevail on that appeal, then I think that the same logic applies here. Absolutely. This regime is far more sweeping, far more punitive. But, yes.

THE COURT: And the logic is -- again, just to make sure I've got the argument right -- the logic is the state of Florida tells other people you can't engage with CAIR, and the idea then is that will force CAIR to go out of business. And that's the coercion argument?

MS. GORSKI: Not just go out of business, but end their extensive protected speech and association, yes.

THE COURT: Okay. But you're also saying the direct -- and this is, I guess, where it is different. You're saying the state's doing that also directly.

MS. GORSKI: Yes, Your Honor.

THE COURT: Okay. So the coercion -- I guess, similar to my question before, do you see a way you could win on your regular First Amendment noncoercion claim, and then -- that you could lose on that and then win on coercion?

I know you've got the separate retaliation that's out there that we're not talking about today, but the First Amendment claims we're talking about today, they all sort of become one, don't they?

MS. GORSKI: I think of them as discrete, Your Honor and -- in part, because the associational claim, as I think in

the colloquy you acknowledge, it is quite broad, and it is different from Holder in that respect because the facts here are so different. Holder involved a very narrow challenge.

And part of the court's skepticism about the lack of specificity and some of that pre-enforcement challenge had to do with the vagueness claim in particular. There's not a vagueness claim here. And here, an entire organization is being forced to cease operations on pain of felony penalty, and that is a domestic organization. And those two features just means -- the analysis in Holder is relevant in some respects, but Holder doesn't provide the complete roadmap to this case for that reason.

And so I think it has been absolutely appropriate for plaintiffs to talk about these issues in broader strokes because the consequences are very broad. But if it would be helpful for to the court for plaintiffs to supplement the briefing by talking about some of these provisions and addressing some of these provisions in more detail, plaintiffs are obviously happy to do that.

And here now too, I know we have been focused on just a subset. But to 874.05 makes it a felony to recruit criminal gang members. 874.08, all property used to facilitate criminal gang activity, again, anything in furtherance of the organization's interest, is subject to seizure and forfeiture.

THE COURT: Would you just slow slightly? Yes just a

4:09 1 little bit. Thank you.
4:09 2 MS. GORSKI: Oh, I'm sorry. Trying to push through.
4:09 3 Subject to seizure and forfeiture. Under 775.34,
4:09 4 there's a prohibition on membership. Now, that requires an
4:09 5 intent to further illegal acts but as we were discussing
4:09 6 earlier because so much is criminalized, it is trivial for the
4:09 7 state to say you're intending to further illegal acts because
4:09 8 having personnel is an illegal act.
4:09 9 So for all those reasons, plaintiffs are seeking to
4:09 10 enjoin enforcement of all of these provisions but also to
4:09 11 rescind the designation for the reasons that we were discussing
4:09 12 and you were discussing with my friend.
4:09 13 I also wanted to emphasize here that the stigma is
4:10 14 different from the stigma associated with, for example, you
4:10 15 know, the announcement of an ordinary criminal prosecution
4:10 16 because of the nature of the penalties here. These penalties
4:10 17 make plaintiffs absolutely radioactive to third parties as
4:10 18 well. And as a result, third parties are ceasing and limiting
4:10 19 their associations with plaintiffs before the necessary
4:10 20 process.
4:10 21 There was discussion of Arcara and TikTok. I find the
4:10 22 Arcara argument honestly a little perplexing because Arcara
4:10 23 itself states statutes that although regulated at activity with
4:10 24 no expressive component, which we're not conceding this because
4:10 25 we do think this regime is directed at speech, it's directed at

4:10 1 expression.
4:10 2 THE COURT: Not for this stage, though. That's your
4:10 3 retaliation claim.
4:10 4 MS. GORSKI: Not precisely, Your Honor. We have said
4:10 5 we do think that the regime itself is directed at speech, you
4:10 6 know, as applied it has been applied to expressive
4:10 7 associations, and we have talked about --
4:10 8 THE COURT: But expressive associations that the state
4:11 9 says are engaging in terrorist activity.
4:11 10 MS. GORSKI: That the state says are engaging in
4:11 11 terrorist activity.
4:11 12 THE COURT: Right. But I think, again, that's not the
4:11 13 dispute for here. Your First Amendment claim is yes, they
4:11 14 found we are a terrorist organization but, one, we didn't get
4:11 15 due process so undo it; and two, even if we did get due process
4:11 16 what they're doing as a consequence of that is too much because
4:11 17 they're restricting speech of others and they're just kind of
4:11 18 going too far. That's the argument, right?
4:11 19 MS. GORSKI: That is part of the argument, but we have
4:11 20 also argued that it is conduct with a significant expressive
4:11 21 element that drew the legal remedy in the first place under
4:11 22 Arcara. That's Arcara's phrasing. That doesn't require the
4:11 23 court to find for us on retaliation. We have not moved on
4:11 24 retaliation, but we have argued that there was animus involved
4:11 25 here. And in the record --

4:11 1 THE COURT: But the animus only matters for the
4:11 2 retaliation, right?
4:11 3 MS. GORSKI: I think it relates to this triggering of
4:11 4 Arcara. If the Court had any doubt about whether First
4:11 5 Amendment scrutiny applies, this is one other way under Arcara
4:12 6 that it does because you have the persistent targeting from the
4:12 7 state, from the governor.
4:12 8 In addition, looking at the notice of intent, the
4:12 9 notice of intent itself cites protected speech. It's
4:12 10 foregrounded in defendant's own briefing, and the notice of
4:12 11 intent itself relies on, as we explained, chains of attenuated
4:12 12 association, and all of that is in the record.
4:12 13 So plaintiffs have definitely disputed that Florida
4:12 14 has designated them for their terrorist activity, and the
4:12 15 alternative is that Florida has designated them for their
4:12 16 expressive activity.
4:12 17 The Court would not have to agree with us on
4:12 18 retaliation to find that there is enough here to say that it
4:12 19 was conduct with an expressive element that drew this
4:12 20 consequence. But even if the court --
4:12 21 THE COURT: How would I conclude that from this record
4:12 22 though? I mean, what would I say or what would the findings be
4:12 23 based on this record?
4:12 24 MS. GORSKI: Looking at that the notice of intent at
4:12 25 Page 7, for example, which concludes with a discussion of

protected speech and looking at the facts alleged in the notice of intent. So what drew the legal remedy here on the state's view? Association and speech. And so that's conduct with an expressive element.

Again, I don't think the court has to take this path to find that First Amendment scrutiny applies. I just want to clarify that that is part of our argument.

But in a very straightforward sense, under Arcara, also under TikTok, statutes or government sanctions that are directed at activity with no expressive component can still trigger First Amendment scrutiny when they impose a disproportionate burden on those engaged in protected First Amendment activity. And so the court engages in this analysis of whether the burden is disproportionate, and here the burden is clearly disproportionate.

I also wanted to flag just more broadly, you know, domestic is different as Holder makes clear. And on the due process arguments, obviously there is no federal domestic terrorism regime. Neither congress nor the states have the power to designate domestic organizations when there is no federal nexus, and it is uniquely the federal government that has the power to regulate that federal nexus. The state does not.

THE COURT: That's not part of your -- where does that fit in? I mean, that's just to distinguish Holder and the

cases that have said there's not a First Amendment issue. You don't have a separate -- I guess you've got a preemption argument that's not ripe yet. But what was the purpose of saying the states don't have the authority to designate things? Because, I mean, the state could designate anything any way it wants, right? It's the consequence of what that designation -- the consequences from that designation that cause problems potentially.

MS. GORSKI: The consequences cause problems. I think it's a way of distinguishing the lower court federal cases that defendants point to, and a way of rebutting defendants' argument that's the federal and state regimes rise and fall together, because the federal regimes are different.

THE COURT: But not on due process, right?

MS. GORSKI: I think also on due process because the due process analysis is context-specific. And so when you're looking at that time government interest, the federal government has a unique interest in foreign affairs, and the courts have given more deference to that interest. And the due process analyses in these cases are really focused on classified information, again uniquely federal interests.

THE COURT: Well, they're not just on that. But, I mean, you've got two due process arguments. You've got your Matthews and then your -- you get the full criminal protections. But if you're right about the full criminal

protections, then all the federal courts not providing them in the federal terrorist organization context have just missed the boat, right?

MS. GORSKI: No, Your Honor, and that is because Florida's regime is different. The court could focus on that first part of the Hudson test and what the Florida Legislature intended here. The federal regimes do not designate organizations as criminal gangs. The federal designation schemes are located in Title 8 and Title 50, Aliens and Nationality, War and National Defense, not in the part of the Florida code, you know, Criminal Procedures and Corrections. And so I think those two features would be enough to distinguish for the purposes of substantive due process.

THE COURT: But a lot of your argument would go to both, right? And you can have the argument that the federal designations do require a jury finding and things like that, but no courts have said that.

MS. GORSKI: No courts have said that, Your Honor. That's correct.

On procedural due process, I wanted to flag for the court Zinerman V Burch. It's a Supreme Court case, 494 US 113. And there, there was no dispute that the plaintiff had remedies under Florida law for unlawful confinement. Those remedies were set forth, but the plaintiff did not pursue those remedies and the plaintiff had still stated a procedural due process

claim under Section 1983.

In closing I want to underscore, Your Honor, CAIR is an essential part of American civil society, and in certain political circles CAIR is not a popular organization. This has been the case for a long time. But the constitution protects even unpopular organizations. And for countless Floridians, plaintiffs are lifelines. They provide essential pro bono services, they work in interfaith coalitions, and they are a critical voice advocating for the equal treatment of Muslims in Florida. The harms of this regime are not limited to plaintiffs or even to Florida. If defendants are not enjoined, it risks opening the door to other state legislatures, red and blue, passing similar laws. And the upshot could easily be a chaotic patchwork of inconsistent state terrorism designations where political officials are empowered to suppress speech and association of disfavored groups. And even if there is eventually judicial review of that designation, in the meantime organizations like CAIR are hobbled. They suffer financial injury, people are disassociating with them, they are stigmatized, and First Amendment-protected activity is being suppressed. This law is unprecedented, it is unconstitutional, and plaintiffs' designations should be rescinded.

And if you have any further questions.

THE COURT: I did want to ask, you'd mentioned you were offering supplemental briefing on something and tell me

what that was again, and whether you think that's necessary?

MS. GORSKI: We don't think it's necessary, Your Honor. But if Your Honor had any concerns about the specificity of the briefing with respect to each of the provisions that's being challenged, we would gladly supplement the briefing to address each of those provisions. You know, we were -- we sought an extended word limit, but even with the extended word limit there's a lot to say.

THE COURT: The briefing was very good on both sides. I think it was very helpful. I don't know that I need more based on that, and I did -- like I said, I understand the specific provisions you're challenging, and I think what you said at the outset about what was facial and what was not was helpful, and I'll go back and look at that.

But I did -- we have talked about a lot of specific provisions today, or some specific types of conduct and things like that. I kept mentioning training. But you don't have anything specific in this record about training opportunities or anything like that, right? Your claim is broader. This is not -- you would view this as a, sort of, an all-or-nothing proposition? Or maybe you don't.

MS. GORSKI: No, Your Honor. We are -- I mean, obviously our top-line argument is that the designation should be rescinded, and the entire regime should be enjoined. But plaintiffs' argument about content and viewpoint discrimination

where we focused on a couple of provisions, you know, that's a subset of the First Amendment arguments and we don't see it as all or nothing.

I would say in particular, plaintiffs are concerned about their ability to continue to litigate this case. CAIR-Florida's board members, in the absence of an injunction or an agreement with defendants, are planning to resign on November 5th which is going to significantly impair plaintiffs' ability to proceed with the litigation, or CAIR-Florida's ability to proceed with the litigation.

THE COURT: I'm glad you raised that, because I was going to address that. You said there, you know, subject to an agreement. It seemed like -- of course, no one has to agree to anything. I'm not suggesting that. But it seemed like their brief said that they don't read the statute the same way you do, if I'm remembering right about which provision they're talking about.

You say -- the emergency rule says they can challenge things, or the lawyers are kind of free and clear. You sort of hint in the briefs that maybe you're not willing to rely on that, but I don't know on what basis you wouldn't be. Or maybe I'm misreading the hint. And I know you said it expires also, but it doesn't expire imminently. What's your view on that?

MS. GORSKI: So the concern is that one, on its face, it only applies to the lawyers.

4:20 THE COURT: But you don't question whether it is effective in that regard as to the lawyers.

4:20 MS. GORSKI: Not as to the lawyers. But I think more fundamentally the lawyers can't litigate without clients, and right now the clients can't have personnel. I mean, because of the ways in which all of these provisions are working together the clients need some kind of reassurance as well, even if the lawyers have the assurance of the regulation. And unfortunately, defendants brief didn't really provide that assurance. I think the first representation was focused on the state court proceeding saying well surely, you know, plaintiffs wouldn't be charged with a crime for proceeding in state court.

4:21 THE COURT: You're right. You're right about that.

4:21 MS. GORSKI: And then there was a second footnote where they mentioned that plaintiffs couldn't be charged for judicial review, but that was also the language -- it was key to the state court proceeding, it was just not a straightforward representation that plaintiffs would be free to proceed with this litigation without having to fear that sort of Damocles.

4:21 THE COURT: Got it. Okay. I am going to ask the other side about that, and then I'll give them an opportunity too on this, if they want it, on the coercion piece that we talked about that we hadn't talked about initially, and then I said I'll give you the last word and I will, so you'll get to

come up again.

But does anybody on the defense want to be heard on the coercion thing? And then I do want to ask some questions about what Ms. Gorski was saying about the lawyers and what the concession was in the brief, if any. Again, I'm not suggesting anyone has to agree to anything.

MR. COOPER: Your Honor, with respect to whether or not employees or board members of CAIR can provide assistance to the lawyers as they attempt to either defend a prosecution or to challenge in the Leon County the designation, or to litigate here to protect themselves from implementation of the designation; we have conceded that the regulation, while it may only speak to lawyers, will include those employees necessary for the lawyers to do their job.

THE COURT: I thought your colleague just said that anyone who is still an employee is providing personnel and would be subject to prosecution after November 5th or 6th.

MR. COOPER: And they will, unless they are engaged in that process. We think --

THE COURT: But they would not be subject to prosecution under this law, is your interpretation or agreement, if they are -- to the extent they're providing assistance in litigation either here, or with new litigation in circuit court or --

MR. COOPER: We think that the -- for example, with

respect to just the appeal, the statute acknowledging and allowing an appeal to Leon County contemplates that the necessary ingredients for an appeal to be prosecuted, which wouldn't be just the lawyers, it would be the necessary employees who are relevant to it, we understand that. And so --

THE COURT: But that's talking about the statutory appeal. What about -- there's an Eleventh Circuit appeal in the companion case. I don't know if they're companions, but the other CAIR case. Would the employees of CAIR who are assisting Ms. Gorski, or whoever is going to argue that in preparing for the oral argument, be violating the law?

MR. COOPER: I haven't thought about that, but it's outside of the statutory regime and I'd want to get back to you on that.

THE COURT: Okay.

MR. COOPER: But it does seem to me that with respect to anything challenging or seeking protection from this designation under the statutory regime, both as a matter of statutory interpretation and as a matter of actually Sixth Amendment and due process, the designated entity has a right to defend itself; and it has a right, we believe, and we're not going to contest, that the individuals necessarily to that properly would be within the protection of my statements.

THE COURT: All right. And you're saying that as

counsel for all of the defendants -- because you represent all the state attorneys, you have all the defendants, correct?

MR. COOPER: That's right, Your Honor.

THE COURT: Okay. Thank you.

Oh, yes, sir.

MR. RAMER: Sorry, Your Honor.

THE COURT: You're fine, Mr. Ramer. Yes, sir.

MR. RAMER: Just touch on the coercion point, and then two quick points about Arcara.

On coercion, the coercion claim is about when the government is targeting CAIR's speech through the regulation of others. In the material support statute with respect to others outside who are trying to provide material support, the regulation is just regulating them directly. And so it's just not a coercion. In either event if it's just speech, it gets to strict scrutiny if it is pure speech.

Now relatedly, with respect to the Arcara point, we're not saying Arcara applies to the as-applied challenge to speech. Arcara applies to everything else that is incidental. When you're talking about the application of the statute to speech, as applied to speech, then we're outside of Arcara. But Arcara applies to everything else which is just incidental regulation on speech.

And then the last point is my friend raised the two points in Arcara about where the significant expressive element

drew the legal remedy in the first place. What the court was referring to there was cases like O'Brien where it's actual expressive conduct at issue. Here it's terrorist activity, and so that one doesn't apply.

And then the point about the undue burden --

THE COURT: It would apply. I mean, I guess part of their claim is that that was pretext and that what the deciders were really after was punishing them for pro-Palestine speech and things like that. And if they're right about that, then they've got a good claim, right? Your defense would be they're not right about that.

But if the decision was made to put them out of business based on their views and not based on terrorist activity, that would be a First Amendment issue.

MR. RAMER: So that sounds in a retaliation claim, or some sort of selective enforcement claim. They haven't even pled selective enforcement. Retaliation, they're not seeking the PI on.

THE COURT: Correct. I still think that -- like I said, that's part of the theme of the brief, and I think that gets to what we were just hearing about, sort of, what's really going on. But that's not at issue right now.

MR. RAMER: Sorry. I missed that.

THE COURT: I just said that's not at issue.

MR. RAMER: Correct. That's not here before the

court.

And then the last point about the undue burden. What Arcara is talking about, and you can tell by the cite to the Minneapolis Star, it's talking about statutes that single out particular organizations or speakers that engage in expressive activity. There it was the tax on ink which singled out -- tax on ink and paper which singled out newspapers. In TikTok it was a statute that regulated social media companies that engage in expressive activity. Arcara was not talking about some free-floating burden standard and, in fact, rejected that argument saying it would prove too much.

Thank you.

THE COURT: Okay. Thank you.

Ms. Gorski, as promised, I'll give you the last word.

MS. GORSKI: Thank you, Your Honor.

Just on the scope of any agreement, I want to be clear here. It's not only employees who would need to assist with the litigation. CAIR-Florida also needs to have protection for board members. Plaintiffs need to be able to work with vendors who don't want to be charged with providing material support to plaintiffs in order to litigate this case. And then if plaintiffs are going to continue to exist just to litigate the case, they need latitude to engage in basic legal and compliance measures so that their organizations are complying with state and federal law. And so for that reason, at a bare

minimum, plaintiffs would request an injunction or an expanded agreement that just clearly covers those legal compliance issues, and the third parties who would be relevant to, for example, discovery and other aspects of the litigation.

But, again, in closing, this is unprecedented, it is unconstitutional, and plaintiffs' designation should be rescinded.

THE COURT: The Texas law, I know that's been challenged. Are you involved in that one?

MS. GORSKI: I am not, Your Honor.

THE COURT: Okay. And I did look at the docket. It looks like there's not been any sort of request for preliminary injunctive relief or anything like that. So you don't know what the status of that or how the claims relate to what's here?

MS. GORSKI: My understanding is that it does not involve a similar statutory regime, and it's based on targeting under an executive order. But, again, I think speaks to the ways in which the terrorism label is easily abused by governments in order to target disfavored speakers.

THE COURT: Thank you.

MR. COOPER: Your Honor, we are involved in the Texas case and can provide you some information if you would like.

THE COURT: Okay. Sure. A summary of what's going on there might be helpful. Might not. Maybe they're sufficiently

different. I've not looked at it in any depth.

MR. RAMER: The status of that case right now is motions for judgment on the pleadings are pending. There was a preliminary injunction that was put up, it was subsequently voluntarily withdrawn after a prolonged discovery period.

With respect to the nature of the claims, there it is an executive proclamation that then leads to particular follow-on consequences with respect to property -- property law. And our motion has been pending for a while. It's been a while since I read the briefs, but that's my recollection. It's property law and nuisance law that follows from -- in relation to an executive proclamation.

MS. SHAMSI: Your Honor, if I may.

THE COURT: Oh, sure.

MS. SHAMSI: Ms. Shamsi from ACLU for CAIR. If Your Honor has any questions about the Texas case, since we are not counsel on it, we would be happy to ask CAIR's counsel in Texas to be able to respond to you. I just don't want to --

THE COURT: Oh, no. I don't know that it matters much. I just thought -- I saw in the briefs that there was a similar -- I don't know how similar it was, but there was an issue in Texas. I knew there was a case, and so I just looked to see if there was any order or anything, and I didn't see anything of import.

MS. SHAMSI: We appreciate that. It is an executive

order. It's not the same kind of statute as Ms. Gorski said. But if you have any questions, we would be happy to get answers to you.

THE COURT: I appreciate that.

Well, I want to thank both sides. I did think the briefing was very helpful, and I think the argument was very helpful. There's a lot here, and I'll get to work on it, and I recognize it's time sensitive.

So I appreciate everyone's argument today, and safe travels back for those of you who are traveling. And that's all for today.

COURT SECURITY OFFICER: All rise.

(Proceedings concluded)

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of the proceedings in the above-entitled matter. Any redaction of personal data identifiers pursuant to the Judicial Conference Policy on Privacy is noted within the transcript.

10-31-2026 /s/ Dawn M. Savino, R.P.R., C.R.R.
Date DAWN M. SAVINO, R.P.R., C.R.R.