UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Hindu American Foundation **Plaintiff,** **v.** **Sunita Viswanath, Raju Rajagopal, Rasheed Ahmed, John Prabhudoss, & Audrey Truschke** **Defendants.**	)	**CASE NUMBER 1:21-CV-01268-APM**

MOTION TO DISMISS BY DEFENDANT RASHEED AHMED

Defendant Rasheed Ahmed ("Ahmed"), by and through his undersigned counsel and pursuant to Fed. R. Civ. P. 12(b)(1), (2), (3), and (6), hereby respectfully moves to dismiss the claims asserted against him in the Complaint of Plaintiff Hindu American Foundation ("Plaintiff") with prejudice.

In support of the motion, Ahmed relies on the accompanying Memorandum of Points and Authorities, his declaration, the Declaration of Daniel Goldberger, any reply Ahmed may file in support of this motion, and any oral argument the Court may hear. As more fully set forth in the supporting papers, (i) the Court lacks personal jurisdiction over Ahmed and subject matter jurisdiction over this action, (ii) venue is improper, and (iii) Plaintiff has failed to state a claim against Ahmed. The Court accordingly should grant the motion, dismiss the Complaint, and enter judgment in favor of Ahmed.

REQUEST FOR HEARING

Ahmed respectfully requests a hearing on his motion to dismiss.

Dated: September 3, 2021

Respectfully submitted,

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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT RASHEED AHMED'S MOTION TO DISMISS

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Defendant Rasheed Ahmed ("Ahmed") respectfully submits this memorandum of points and authorities in support of his motion to dismiss the claims of Plaintiff Hindu American Foundation pursuant to Federal Rules of Civil Procedure 12(b)(1), (2), (3), and (6).

INTRODUCTION

This lawsuit is a transparent attempt to silence those who oppose Plaintiff in the context of what Plaintiff describes as "political disagreements" about certain policies of the Indian government. Compl. ¶ 4. Rather than address those disagreements through political discourse and in the court of public opinion, Plaintiff asks this Court simply to curtail Defendants' speech. Indeed, while this action is purportedly based on the publication of two articles by Al Jazeera (referred to as the "First Story" and the "Second Story"), which criticized causes Plaintiff is associated with, Plaintiff did not sue Al Jazeera or the author of the articles. Instead, Plaintiff sued individuals with different political views on these issues and who were quoted in the articles or otherwise offered commentary on them.

That Plaintiff's Complaint was filed without legitimate basis is established by its numerous specific and fatal flaws, each of which requires dismissal as to Ahmed. First, Plaintiff has not even articulated a theory of personal jurisdiction with respect to Ahmed who lives and works in Illinois and is not alleged to have done *anything* in D.C., making the exercise of personal jurisdiction over him entirely improper.[1] Second, Plaintiff raises the specter of suffering damages in excess of $75,000 through lost donations, yet makes that allegation in a single conclusory statement and does not actually claim to have suffered *any* damages yet. Moreover, Plaintiff's Executive Director has bragged on Twitter about the tremendous support Plaintiff is

[1] In the same vein, venue is not proper in this District.

receiving in connection with this litigation. Thus, it does not appear that subject matter jurisdiction—premised on diversity, according to Plaintiff—exists either.

Substantively, Plaintiff's cause of action for defamation against Ahmed fails to state a claim. As an initial matter, Plaintiff does not adequately plead that Ahmed himself did anything relevant, instead contending baldly that Ahmed "caused" non-party the Indian American Muslim Council ("IAMC") (of which he is Executive Director) to take certain actions. Such allegations cannot state a claim for individual liability. Even assuming *arguendo* that personal liability could be so established, the allegedly defamatory statements of Ahmed would not be actionable because those statements are, variously: (i) true, (ii) not defamatory, (iii) expressions of opinion regarding political matters, and/or (iv) not concerning Plaintiff. Further, to the extent Plaintiff's claim is based on Ahmed's supposed efforts to cause those articles to be republished, that theory fails because the stories themselves are not actionable and, even if they were, republishing is not actionable. In addition, Plaintiff, as a public figure, must plead actual malice, but has failed entirely to allege facts that would satisfy the exacting standards for establishing malice, which independently dooms the defamation claim. Finally, Plaintiff has made no real attempt to plead special damages, which is another independent basis for dismissal.[2]

For all of these reasons, the Complaint should be dismissed and any "political disagreements" between Plaintiff and Defendants thereby returned to the political arena.

[2] Plaintiff's conspiracy claim fails because there is no adequately alleged underlying tort and no sufficient allegations to establish any improper agreement.

FACTUAL BACKGROUND

I. Plaintiff Is a Non-Profit Hindu Advocacy Organization.

Plaintiff describes itself as an "educational and advocacy organization" that "focuses on educating the public about Hindus and Hinduism."[3] Despite having filed the instant action, Plaintiff claims to be guided by principles rooted in Hinduism and American values, including seeking and attaining truth through free expression.[4] And, despite asserting claims against Ahmed and others based solely on their speech, Plaintiff acknowledges "there is no right, at least in the US, to be shielded from ideas and opinions one may find disagreeable, distasteful, emotionally triggering, or even deeply offensive" and claims to believe that "the response to those views with whom we disagree must simply be more speech, countering viewpoints, and not calling for prohibitions on the right to express oneself."[5]

While Plaintiff alleges that it works for the "dignity, mutual respect, pluralism, and the greater good of *all*" (Compl. ¶ 1) (emphasis added), Plaintiff does not deny engaging in specific activities reported in the First Story that hardly fit that description. For example, Plaintiff has lobbied on Capitol Hill to defend legislation enacted in India known as the Citizenship Amendment Act,[6] which the United Nations described as "fundamentally discriminatory" in that it "would give migrants of all of South Asia's major religions a clear path to Indian citizenship—except Islam."[7] Similarly, Plaintiff does not deny that Rishi Bhutada, one of its board members

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[3] Hindu American Foundation, https://www.hinduamerican.org/about (last visited August 30, 2021).

[4] Hindu American Foundation, https://www.hinduamerican.org/issues/haf-policy-brief-free-speech (last visited August 30, 2021).

[5] *Id.*

[6] Declaration of Daniel Goldberger ("Goldberger Decl.") Ex. A at 9.

[7] Jeffrey Gettleman & Suhasini Raj, India Steps Toward Making Naturalization Harder for Muslims, N.Y. Times (Dec. 9, 2019), https://www.nytimes.com/2019/12/09/world/asia/india-muslims-citizenship-narendra-modi.html.

and its treasurer, is the son of Ramesh Bhutada.[8] Ramesh Bhutada, as described in the First Story, is the national vice president of Hindu Swayamsevak Sangh, the U.S. wing of Rashtriya Swayamsevak Sangh ("RSS"), which has been described by respected sources as "a violent right-wing organization that promotes Hindu supremacy" and one of whose members assassinated Mahatma Ghandi.[9]

II. Rasheed Ahmed Is the Executive Director of IAMC.

Ahmed, a resident of Illinois, is the Executive Director of the non-profit organization IAMC. Compl. ¶ 10; Declaration of Rasheed Ahmed ("Ahmed Decl.") ¶ 2. IAMC is an advocacy group of Indian-American Muslims in the United States, whose objectives include promoting pluralism and tolerance in India and the United States; increasing inter-faith and inter-community understanding among the Indian diaspora in the United States; and providing a platform for education and awareness about issues of interest to Indian-Americans in the United States.[10]

III. The Alleged Defamatory Statements.

Plaintiff alleges Defendants "caused" false and defamatory statements to be published in the First Story, written by non-party Raqib Hameed Naik and published by non-party Al Jazeera on April 2, 2021. Compl. ¶ 24. The First Story is entitled "Hindu right-wing groups in US got $833,000 of federal COVID fund[:] Five groups linked to Hindu nationalist organisations in

[8] Plaintiff's 2019 tax filings confirm Rishi Bhutada has these roles. Goldberger Decl. Ex. B at 7.

[9] *See* Eliza Griswold, The Violent Toll of Hindu Nationalism in India, New Yorker (Mar. 5, 2019), https://www.newyorker.com/news/on-religion/the-violent-toll-of-hindu-nationalism-in-india.

[10] Indian American Muslim Council, https://iamc.com/about-us/ (last visited August 30, 2021).

India received direct payments and loans in federal relief fund." *Id*.[11] No statement or quote from Ahmed appears in the First Story. *See generally* Goldberger Decl. Ex. A.

Plaintiff alleges Ahmed "caused" IAMC to post the First Story and a hyperlink thereto on IAMC's Twitter account and website along with a statement: "*Experts have raised concerns* that the US pandemic relief funds received by Hindu rightwing groups might end up furthering hate campaign against Muslims and other minorities in India." Compl. ¶ 26 (emphasis added). Obviously, that statement, even if made by Ahmed, does nothing more than describe statements from experts who are in fact quoted in the First Story. Plaintiff further avers that "Ahmed caused IAMC to post the First Story multiple times on its Twitter along with quotes and commentary in addition to the republication on its website." *Id.* ¶ 27. Plaintiff does not specify the other dates or any other "quotes" or "commentary."

Plaintiff alleges Defendants caused false and defamatory statements to be published in the Second Story, also written by Naik and published on AlJazeera.com on April 8, 2021. Compl. ¶ 28. The Second Story is entitled "Call for US probe into Hindu right-wing groups getting COVID fund [:] Following an Al Jazeera report, US-based Coalition to Stop Genocide in India demands investigation into federal funds given to 'sponsor hate'." *Id.* As to Ahmed, Plaintiff alleges only that he made a single uncontroversial statement in the Second Story: "US taxpayers' money being used to keep hate groups in business is absolutely unacceptable and should concern all who believe in fairness, justice and government accountability[.]" *Id*. ¶ 29.

Without any factual support, Plaintiff also claims Ahmed personally "caused" IAMC to republish the Second Story as a "Press Release" on IAMC's website. Compl. ¶ 30. Plaintiff

[11] Plaintiff does not deny receiving $378,064 in Paycheck Protection Program loans and $10,000 in Economic Injury Disaster Loan Advance ("EIDLA") payments. *See* Goldberger Decl. Ex. A at 8.

alleges IAMC's Press Release attributed the following quote to the Coalition to Stop Genocide in India (the "Coalition"):

> The 'Coalition to Stop Genocide in India' is committed to ensuring that American institutions and discourse are safeguarded from the virulent Hindutva ideology. To that end, the coalition will continue to expose Hindutva front organizations in the US and their role in normalizing the human rights abuses and religious freedom violations in India.

Id.

In addition, Plaintiff alleges, without substantiation, that Ahmed "caused" IAMC to make "numerous posts" on Twitter referencing the Second Story and included links to the same. Compl. ¶ 31. In this context, Plaintiff claims Ahmed "caused" IAMC to retweet a post from Defendant Audrey Truschke, which included comments such as, "Indian Americans of diverse backgrounds call for probe of US-based Hindu nationalist groups." *Id.* ¶ 31(a). Plaintiff further complains that Ahmed "caused" IAMC to post the Second Story along with the following anodyne tagging of several individuals, including politicians and journalists:

> @AudreyTruschke @FriedrichPieter @simran @arjunsethi81 @suchitrav @shailjapatel @mitalisaran @sonipaul @BasharatPeer @FareedZakaria @RashidaTlaib @RepDebHaaland @BradSherman @RoKhanna @RepJayapal https://www.aljazeera.com/news/2021/4/8/call-for-us-probe-into-hindu-right-wing-groups-getting-covid-fund [.]

Id. ¶ 31(b).

ARGUMENT

I. There Is No Basis to Exercise Personal Jurisdiction Over Ahmed.

Plaintiff bears the burden of establishing a factual basis for the Court's exercise of personal jurisdiction over Ahmed. *Crane v. N.Y. Zoological Soc'y*, 894 F.2d 454, 456 (D.C. Cir. 1990); *see also First Chi. Int'l v. United Exchange Co.*, 836 F.2d 1375, 1378 (D.C. Cir. 1988) ("[T]he general rule is that a plaintiff must make a prima facie showing of the pertinent jurisdictional facts."). Bare allegations and conclusory statements are insufficient. *Second*

Amendment Found. v. U.S. Conference of Mayors, 274 F.3d 521, 524 (D.C. Cir. 2001). Further, a plaintiff cannot aggregate factual allegations concerning a group of defendants generally to establish personal jurisdiction over an individual defendant. *Rush v. Savchuk*, 444 U.S. 320, 331-32 (1980). Finally, personal jurisdiction must be exercised in a manner that comports with the Due Process Clause of the Fourteenth Amendment. *GTE New Media Servs. v. BellSouth Corp.*, 199 F.3d 1343, 1347 (D.C. Cir. 2000).

Here, Plaintiff does not—and cannot—allege facts sufficient to establish that this Court has either general or specific personal jurisdiction over Ahmed. As Plaintiff correctly alleges, Ahmed is a resident of Illinois. Compl. ¶ 10; Ahmed Decl. ¶ 2. He neither lives nor is employed in the District, and Plaintiff does not assert otherwise. Ahmed Decl. ¶¶ 5-7. Remarkably, Plaintiff does not attempt to articulate any particular basis for the exercise of personal jurisdiction over Ahmed, instead asserting baldly that personal jurisdiction exists as to all Defendants because "they have minimum contacts" with the District. *See* Compl. ¶ 17. That is plainly insufficient and the Complaint should be dismissed for lack of personal jurisdiction on this basis alone.

A. Ahmed Is Not Subject to General Personal Jurisdiction.

"A District of Columbia court may exercise personal jurisdiction over a person domiciled in . . . or maintaining his or its principal place of business in, the District of Columbia as to any claim for relief." D.C. Code § 13-422. In addition, "continuous and systematic" contacts with the forum can give rise to general jurisdiction. *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414-15 (1984). There are no colorable grounds on which general personal jurisdiction can be said to exist as to Ahmed (even if Plaintiff were actually to take the position that such jurisdiction exists). As Plaintiff itself alleges, Ahmed resides in Illinois, not Washington, D.C. Compl. ¶ 10; Ahmed Decl. ¶ 2. Furthermore, Plaintiff does not allege that Ahmed maintains a place of business in the District of Columbia (which Ahmed does not) or that

Ahmed has "continuous and systematic" contacts with the District (which again Ahmed does not). *See generally* Ahmed Decl. General personal jurisdiction is plainly inapplicable here.

B. Ahmed Is Not Subject to Specific Personal Jurisdiction.

To exercise specific (or long-arm) jurisdiction, a two-part test must be satisfied: "A court must first examine whether jurisdiction is applicable under the state's long-arm statute and then determine whether a finding of jurisdiction satisfies the constitutional requirements of due process." *GTE New Media,* 199 F.3d at 1347. As to the first prong, the District's long-arm statute provides for personal jurisdiction over a non-resident defendant "as to a claim for relief arising from the person's . . . causing tortious injury in the District of Columbia by an act or omission outside the District of Columbia *if* he regularly does or solicits business, engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed, or services rendered, in the District of Columbia." D.C. Code § 13-423(a)(4) (emphasis added).

While Plaintiff would presumably cite to this provision to support the exercise of personal jurisdiction over Ahmed,[12] the Complaint is silent as to Ahmed's location when he allegedly engaged in tortious conduct. Absent an allegation that a tort was committed *somewhere outside* the District of Columbia, Section 13-423(a)(4) is inapplicable. In addition, Plaintiff's allegations regarding harm are insufficient. Plaintiff vaguely asserts that it "has lost and/or expended and/*or will lose* and/or expend at least $75,000 as a result of the events that occurred." Compl. ¶ 16 (emphasis added); *see also id.* ¶ 36 "([The false accusations] have caused, *or will cause* substantial harm to HAF, including lost donations in excess of $75,000.") (emphasis

[12] The statute also authorizes jurisdiction over a non-resident in connection with claims arising from: (1) transacting any business in D.C.; (2) contracting to supply services in D.C.; (3) causing tortious injury in D.C. by an act or omission in D.C.; … (5) having an interest in, using, or possessing real property in D.C.; (6) contracting to insure or act as surety in D.C.; or (7) marital or parent and child relationship in D.C. D.C. Code § 13-423(a)(1)–(7). No facts alleged in the Complaint conceivably relate to any of these provisions.

added). As such, Plaintiff does not allege that it has actually suffered any harm anywhere, let alone in the District, instead alluding to the possibility that there may be future harm. This cannot satisfy the element of "tortious injury in the District of Columbia."

Moreover, even if Plaintiff had alleged that a tort was committed outside D.C. that caused harm within D.C. in order to invoke Section 13-423(a)(4), Plaintiff conspicuously fails to include any allegations that Ahmed regularly does or solicits business in D.C., engages in any other persistent course of conduct in D.C., or derives substantial revenue from goods used or consumed, or services rendered, in D.C.—and there would be no legitimate basis for such allegations. *See generally* Ahmed Decl. Therefore, the Complaint should be dismissed on the independent basis that Plaintiff has failed to establish those prerequisites as well.[13] *See McIntosh v. Gilley*, 753 F. Supp. 2d 46, 59 (D.D.C. 2010) (no personal jurisdiction where plaintiff failed to allege facts sufficient to satisfy Section 13-423(a)(4) "plus factors"); *Crane v. Carr*, 814 F.2d 758, 763 (D.C. 1987) (the "plus factors" "serve to filter out cases in which the in-forum impact is an isolated event and the defendant otherwise has no, or scant, affiliations with the forum.").

C. Ahmed Does Not Have Minimum Contacts with D.C.

Because Plaintiff failed to allege facts sufficient to allow this Court to exercise long-arm jurisdiction over Ahmed pursuant to the terms of the District's long-arm statute, the Court need not reach the issue of minimum contacts. However, the exercise of specific jurisdiction is likewise improper as a matter of due process, which mandates that personal jurisdiction may not

[13] Plaintiff alleges Ahmed posted or republished false and defamatory statements on IAMC's website and Twitter. Compl. ¶¶ 26(a), 27, 29(a), 30, 31. Any argument that such activity satisfied these prerequisites would have to be rejected. In *McFarlane v. Esquire Magazine*, 74 F.3d 1296, 1300 (D.C. Cir. 1996), the court rejected an argument that the defendants' having written articles for national publications that were circulated in D.C. constituted doing business or engaging in a persistent course of conduct in the District. And, here, Ahmed did not even write any articles. *See also Forras v. Rauf*, 812 F.3d 1102, 1108 (D.C. Cir. 2016) (defendant's statement in legal papers filed in New York that were quoted in a newspaper article did not establish contacts required under Section 13-423(a)(4)).

be exercised over a defendant unless he has "purposefully established minimum contacts within the forum State," *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 477 (1985), "such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945) (internal quotation marks and citation omitted). These minimum contacts must be grounded in "some act by which the defendant purposefully avails itself of the privilege of conducting activities with the forum State, thus invoking the benefits and protections of its laws." *Burger King*, 471 U.S. at 475.

In *Walden v. Fiore*, 571 U.S. 277, 290 (2014), the Supreme Court emphasized that the due process inquiry turns on the *defendant's conduct*, not the effects on the plaintiff.

> Regardless of where a plaintiff lives or works, an injury is jurisdictionally relevant only insofar as it shows that the defendant has formed a contact with the forum State. The proper question is not where the plaintiff experienced a particular injury or effect but whether the defendant's conduct connects him to the forum in a meaningful way.

See also id. at 285 ("plaintiff cannot be the only link between the defendant and the forum.").

Courts in this District agree that minimum contacts are not established "solely on the ability of District residents to access the defendants' website[], for this does not by itself show any persistent course of conduct by the defendants in the District." *GTE New Media*, 199 F.3d at 1349. Rather, courts require "a certain level of interactivity by the user" for a website potentially to be relevant to a minimum contacts analysis. *Parisi v. Sinclair*, 806 F. Supp. 2d 93, 97 (D.D.C. 2011) (citation omitted). The interactive features must connect the website to D.C. *Id.* (no persistent course of conduct in the District when there was no showing that the "website somehow targets D.C. residents and/or has interactive forums that allow . . . visitors to interact with [the defendant] or with one another"). Also, while interactivity is necessary, it is not sufficient. Rather, "at least some other non-internet related contacts between the defendant and the forum" are required to establish minimum contacts. *Id.*

Pursuant to these principles, numerous courts in this District have dismissed defamation claims for lack of minimum contacts when it was alleged only that D.C. residents would be able to view allegedly false statements online. *See, e.g.*, *Collingsworth v. Drummond Co.*, Civil Action No. 19-1263 (ABJ), 2020 U.S. Dist. LEXIS 94081, at *27 (D.D.C. May 29, 2020) (citing *Betz v. Aidnest*, No. 1:18-CV-0292 (KBJ), 2018 U.S. Dist. LEXIS 183632, at *21-22 (D.D.C. Oct. 26, 2018) (a website accessible to D.C. residents "is not purposeful availment; rather, it is merely an unavoidable side-effect of modern internet technology")) (quoting *Doe v. Israel*, 400 F. Supp. 2d 86, 121 (D.D.C. 2005)); *see also Hayes v. FM Broadcast Station WETT (FM)*, 930 F. Supp. 2d 145, 151–52 (D.D.C. 2013) (that D.C. residents had access to defendants' website was insufficient to show that defendants purposefully availed themselves of forum); *Sinclair v. TubeSockTedD*, 596 F. Supp. 2d 128, 133 (D.D.C. 2009) (that statements posted on Internet could be downloaded and viewed in D.C. insufficient). Beyond the fact that IAMC's website is not interactive with D.C. residents (and Plaintiff does not allege it is), Plaintiff has not alleged any non-internet contacts between Ahmed and the District. *See Groop Internet Platform Inc. v. Psychotherapy Action Network*, Civil Action No. 19-1854 (BAH), 2020 U.S. Dist. LEXIS 9510, at *17-20 (D.D.C. Jan. 21, 2020).

Likewise, posting on social media websites from outside the District does not create the requisite minimum contacts to establish personal jurisdiction. *See Gather Workspaces LLC v. Gathering Spot, LLC*, Civil Action No. 19-2669 (RC), 2020 U.S. Dist. LEXIS 191723, at *25 (D.D.C. Oct. 16, 2020) (no personal jurisdiction based on posting job advertisements on LinkedIn); *Sweetgreen, Inc. v. Sweet Leaf, Inc.*, 882 F. Supp. 2d 1, 5 (D.D.C. 2012) (Facebook and Twitter are akin to "passive websites" and posting on those sites is insufficient); *Blessing v. Chandrasekhar*, 988 F.3d 889, 905 n.15 (6th Cir. 2021) ("Our sister circuits have routinely held that posting allegedly defamatory comments or information on an internet site

does not, without more, subject the poster to personal jurisdiction wherever the posting could be read (and the subject of the posting may reside)." (internal quotation omitted));

Janus v. Freeman, 840 F. App'x 928, 931 (9th Cir. 2020) (same); *Shrader v. Biddinger*, 633 F.3d 1235, 1241 (10th Cir. 2011) (same); *Johnson v. Arden*, 614 F.3d 785, 797 (8th Cir. 2010) (same).

Plaintiff does not come close to pleading facts to establish Ahmed has minimum contacts with this forum. Indeed, Plaintiff does not allege Ahmed did *anything* in this forum. Rather, Plaintiff offers a single conclusory allegation that *Defendants'* "minimum contacts include their purposeful conduct in making and conspiring to publish defamatory statements intended to injure an organization located in" D.C. Compl. ¶ 17.

As to supposed conduct by Ahmed, Plaintiff alleges only that, from some unspecified location, Ahmed (an Illinois resident) "caused" two news articles to be posted on IAMC's social media accounts with minor commentary, and that one of the articles quoted him. Even if Plaintiff had adequately pleaded that Ahmed himself actually posted defamatory statements on IAMC's website (which it did not), neither publishing material online nor maintaining a passive website constitutes purposeful availment for the purpose of establishing minimum contacts. Likewise, even if Ahmed had posted defamatory comments on Twitter (again, he did not), posting on social media sites constitutes passive internet activity, which also is insufficient to establish minimum contacts. As such, Plaintiff's claims against Ahmed must be dismissed for the independent reason that Ahmed does not have minimum contacts with this forum as a matter of due process.[14]

[14] Any argument by Plaintiff that it should be granted leave to amend the Complaint in an attempt to establish personal jurisdiction should be rejected because such amendment would be futile, for reasons addressed in this section.

II. There Is No Basis to Exercise Subject Matter Jurisdiction.

A plaintiff bears the burden of establishing subject-matter jurisdiction. *See DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 (2006). A court has an "affirmative obligation to ensure that it is acting within the scope of its jurisdictional authority." *Grand Lodge of the Fraternal Order of Police v. Ashcroft*, 185 F. Supp. 2d 9, 13 (D.D.C. 2001). For this reason, "'the [p]laintiff's factual allegations in the complaint . . . will bear closer scrutiny in resolving a 12(b)(1) motion' than in resolving a 12(b)(6) motion for failure to state a claim." *Id.* at 13-14 (quoting 5A Charles A. Wright & Arthur R. Miller, Federal Practice and Procedure § 1350 (2d ed. 1987)).

Additionally, "when a jurisdictional skirmish present[s] a dispute over the factual basis of the court's subject matter jurisdiction, the court must go beyond the pleadings and resolve any dispute necessary to the disposition of the motion to dismiss." *Szymkowicz v. Frisch*, Civil Action No. 19-3329 (BAH), 2020 U.S. Dist. LEXIS 136537, at *9 (D.D.C. July 31, 2020) (quoting *Feldman v. FDIC*, 879 F.3d 347, 351 (D.C. Cir. 2018) (bracket in original) (quotation and citation omitted)). The Court "may receive and weigh affidavits and any other relevant matter to assist it in determining the jurisdictional facts." *Hourani v. PsyberSolutions LLC*, 164 F. Supp. 3d 128, 136 (D.D.C. 2016) (citation and quotation omitted).

Here, Plaintiff claims subject matter jurisdiction exists based on diversity, requiring the amount in controversy to exceed $75,000. 28 U.S.C. § 1332(a)(1). The sum alleged by the plaintiff controls if alleged in good faith. *Szymkowicz*, 2020 U.S. Dist. LEXIS 136537, at *10 (citation omitted). However, once the amount in controversy is in question, courts apply the objective legal certainty test, under which "the party asserting jurisdiction always bears the burden of establishing the amount in controversy." *Rosenboro v. Kim*, 994 F.2d 13, 17 (D.C. Cir. 1993). A plaintiff must do more than "vaguely assert . . . economic . . . damage" or make

conclusory assertions regarding an alleged injury. *Bronner v. Duggan*, 962 F.3d 596, 609-10 (D.C. 2020); *Rosenboro*, 994 F.2d at 17. In addition, if a plaintiff fails to sufficiently allege the amount in controversy, the case must be dismissed. *Bronner*, 962 F.3d at 610; *see also Rosenboro*, 994 F.2d at 19 (citing *Martin v. Gibson*, 723 F.2d 989, 993 n.5 (D.C. Cir. 1983) ("[D]iversity suits backed only by purely speculative or unsupported allegations of injury" may properly be "ousted from federal court.")).

Plaintiff alleges Defendants' conduct "has injured, and will cause further substantial injury, to HAF's reputation and ability to fundraise." Compl. ¶ 6. In connection with this, Plaintiff asserts it "has lost and/or expended and/*or will lose* and/or expend at least $75,000 as a result of the events that occurred." *Id.* ¶ 16 (emphasis added); *see also id.* ¶ 36 "([The false accusations] have caused, *or will cause* substantial harm to HAF, including lost donations in excess of $75,000.") (emphasis added). Thus, Plaintiff does not definitively assert that it actually has lost money, failing to plead any sustained damages, let alone the threshold amount.

Also, while Plaintiff is very specific about the type of harm it has suffered (or perhaps in the future may suffer), *i.e.,* lost donations, it alleges no facts to support its conclusory allegations regarding donations. Specifically, Plaintiff fails to identify a single donor who decided not to contribute purportedly because of the articles or to specify any donation it claims to have lost. This failure is particularly notable because Plaintiff receives a substantial amount of its funding from a small group of individual donors and the remainder from a handful of fundraising events. For example, in the tax year ending June 2020, eight donors contributed $541,537 out of a total of $1.8 million received in contributions and grants. Goldberger Decl. Ex. D at 2, 22. In a tax filing addressing the first six months of 2019, eight donors contributed $105,003, out of a total of $301,419 in donations. *Id*. Ex. B at 2, 22. As such, Plaintiff is certainly in a position to support

its allegations with more than conclusory statements if those allegations are accurate and made in good faith.

Beyond the absence of substantiating allegations, Plaintiff's Executive Director has tweeted about the remarkable support Plaintiff is receiving: "Getting so many DM's, texts and calls asking how they can support @HinduAmerica's legal action." Suhag A. Shukla (@SuhagAShukla), TWITTER, https://twitter.com/SuhagAShukla/status/1384320360737394695?s=20 (last visited September 2, 2021). That Plaintiff is bragging about receiving support to litigate this case further undermines its conclusory allegations regarding the jurisdictional amount. In sum, absent facts to support Plaintiff's alleged damages, it appears to a legal certainty that the threshold has not been met. *See Bronner*, 962 F.3d at 610; *Rosenboro*, 994 F.2d at 17.

III. Venue Is Improper in the District of Columbia.

A plaintiff bears the burden of establishing proper venue. *Crowley v. Napolitano*, 925 F. Supp. 2d 89, 91 (D.D.C. 2013). The purpose of the venue statute is to protect "*defendants* from having to litigate in jurisdictions far from where they reside or where the underlying conduct occurred." *Corsi v. Stone*, Civil Action No. 19-324 (TJK), 2020 U.S. Dist. LEXIS 34852, at *6 (D.D.C. Mar. 1, 2020) (emphasis in original) (citing *Nigerians in Diaspora Org. Ams. v. SKC Ogbonnia*, 203 F. Supp. 3d 45, 46–47 (D.D.C. 2016)).

Here, Plaintiff alleges venue is proper in the District because "a substantial part of the events, including the publication of the defamatory statements, giving rise to this complaint occurred" in the District. Compl. ¶ 18. However, Plaintiff does not explain how the statements were supposedly published in D.C. and, again, does not allege Ahmed did *anything* here, let alone publish defamatory statements. Given the absence of such allegations, Plaintiff's theory is, evidently, that venue is proper in a defamation case in any district where an allegedly defamatory statement is accessible on the internet, *i.e.,* in any district with internet access.

That boundless proposition does not reflect the law and, in fact, was rejected at least twice recently by a court in this District. *See Corsi v. Stone*, 2020 U.S. Dist. LEXIS 34852; *Corsi v. Infowars, LLC*, Civil Action No. 19-656 (TJK), 2020 U.S. Dist. LEXIS 41133 (D.D.C. Mar. 10, 2020). Plaintiff Corsi alleged that political operatives Alex Jones, Roger Stone, and others made allegedly defamatory statements in several video interviews and an article posted on Infowars' website. *Stone,* at *4–5; *Infowars,* at *2-4. In both cases, Corsi argued venue was proper in D.C. because the defendants (1) "broadcast [their statements] into this judicial district by virtue of their availability on the internet," and (2) "'targeted' their statements at the District of Columbia, because they intended to influence Stone's criminal prosecution here." *Stone,* at *4-5; *Infowars,* at *7. And, in both cases, the court rejected this argument, concluding "the mere fact that a website hosting the allegedly defamatory statements is accessible from the District of Columbia does not create venue here under § 1391(b)(2) because it has nothing to do with where the acts 'giving rise to the claim'…occurred." *Infowars,* at *8 (citing *Nigerians in Diaspora,* 203 F. Supp. 3d at 47); *Stone*, at *6-7.

IV. Plaintiff's Defamation Claim Should Be Dismissed Pursuant to Rule 12(b)(6).

To survive a Rule 12(b)(6) motion to dismiss, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly*, 550 U.S. at 556). Thus, a plaintiff must make more than bare allegations that the defendant unlawfully harmed it. *Id.*

"[T]he Supreme Court has directed courts to expeditiously weed out unmeritorious defamation suits." *Kahl v. Bureau of Nat'l Affairs, Inc.*, 856 F.3d 106, 109 (D.C. Cir. 2017).

Early resolution of defamation cases under Rule 12(b)(6) "not only protects against the costs of meritless litigation, but provides assurance to those exercising their First Amendment rights that doing so will not needlessly become prohibitively expensive." *Fairbanks v. Roller*, 314 F. Supp. 3d 85, 89 (D.D.C. 2018) (citation omitted).

The elements of a defamation claim are: (1) "a false and defamatory statement concerning the plaintiff"; (2) "published . . . to a third party"; (3) made with the requisite fault; and (4) "special harm" or a statement that is "actionable as a matter of law irrespective of special harm." *Libre by Nexus v. Buzzfeed, Inc.*, 311 F. Supp. 3d 149, 154 (D.D.C. 2018) (internal citations omitted). With respect to the first element, courts decide at the pleading stage "whether the disputed article (1) contains express or implied verifiably false statements of fact, which (2) are reasonably capable of defamatory meaning or otherwise place [plaintiff] in an offensive false light." *Deripaska v. AP*, 282 F. Supp. 3d 133, 140 (D.D.C. 2017).

It is beyond peradventure that statements of opinion are not actionable. *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 339 (1974) ("Under the First Amendment there is no such thing as a false idea."). Four factors are considered in determining whether a statement constitutes fact or opinion. *Ollman v. Evans*, 750 F.2d 970, 979 (D.C. Cir. 1984). First, the court considers whether the statement "has a precise core of meaning for which a consensus of understanding exists or, conversely, whether the statement is indefinite and ambiguous." *Id*. Second, the court considers whether the statement can be "objectively characterized as true or false" or instead "lacks a plausible method of verification." *Id*. Third, the court evaluates "whether the context would influence an average reader's perception that the challenged statement has factual content." *Id*. Fourth, the court asks if the social "context signals that a statement concerns fact or opinion." *Id*.

Finally, to be actionable, a statement must concern the plaintiff. A statement concerns a plaintiff if an objective reasonable reader could understand the statement as explicitly or

impliedly referring to the plaintiff. *Luhn v. Scott*, Case No. 19-cv-1180 (DLF), 2019 U.S. Dist. LEXIS 193690, at *9 (D.D.C. Nov. 7, 2019); *Alexis v. Dist. of Columbia*, 77 F. Supp. 2d 35, 40 (D.D.C. 1999) ("Defamation is personal; a plaintiff who alleges defamation must show that the allegedly defamatory statement was published 'of and concerning him.'") (citation omitted).

A. The Conduct Attributed to Ahmed in Connection with the First Story Is Not Actionable.

Plaintiff alleges Ahmed "caused" IAMC to post the First Story on IAMC's Twitter page and website with a hyperlink and the following Tweet: "Experts have raised concerns that the US pandemic relief funds received by Hindu rightwing groups might end up furthering hate campaign against Muslims and other minorities in India, @raqib_naik reports in @AlJazeera_World." Compl. ¶ 26(a)(i)(1).[15]

1. The Substance of the Tweet Is Not Actionable.

First, the statement attributed to Ahmed is not false because it does nothing more than accurately note that, in the First Story, a variety of people with relevant professional experience had expressed concerns that relief funds might go to organizations promoting a certain ideology. *See* Goldberger Decl. Ex. A (quoting a co-founder of Hindus for Human Rights, a professor from California State University, and a professor from New York University, expressing those views).[16] Thus, the statement is entirely accurate in its very limited scope.[17]

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[15] Plaintiff alleges that all Defendants were "directly quoted" in both articles. Compl. ¶ 3. That assertion is demonstrably false as Ahmed is not quoted at all in the First Story. *See generally* Goldberger Decl. Ex. A.

[16] In deciding a Rule 12(b)(6) motion, courts may consider documents attached to the complaint as exhibits or incorporated by reference. *Abhe & Svoboda, Inc. v. Chao*, 508 F.3d 1052, 1059 (D.C. Cir. 2007).

[17] To the extent Plaintiff might argue, contrary to the language of the statement, that the statement implicitly reflects a judgment regarding the accuracy of the experts' quotations, such a statement would be an unactionable expression of opinion. In fact, it would be an expression of an opinion regarding *others'* opinions.

Second, the statement does not refer to Plaintiff. *See Luhn*, 2019 U.S. Dist. LEXIS 193690, at *9. Rather, it refers to unnamed groups about which experts had opined. Thus, the statement is not "concerning the plaintiff" and could not be the basis for a viable defamation claim by Plaintiff even if it were false and defamatory in some other fashion (it is not).

Third, Plaintiff has failed to make any non-conclusory allegation that Ahmed actually made the statement. *See Iqbal*, 556 U.S. at 678. Rather, Plaintiff offers *only* the vague formulation that Ahmed "caused" the statement to be made. If Plaintiff is asking the Court to assume Ahmed "caused" the statement to be published by virtue of his position with IAMC, such assumption would not create a plausible basis for a claim for individual liability against Ahmed. *See id.* To the contrary, the law is clear that to state a claim for defamation, there must be "sufficient facts in the complaint to support an inference that [the defendant] actually published or knowingly participated in publishing the defamatory statements." *Zimmerman v. Al Jazeera Am., LLC*, 246 F. Supp. 3d 257, 273 (D.D.C. 2017) (citation omitted). Thus, pursuant to *Iqbal* and *Zimmerman*, this allegation fails to state a claim.[18]

2. Republishing and Commenting Upon Previously Published Material Is Not Actionable.

Plaintiff's allegations that Ahmed reposted and commented about the First Story also fail to state a claim. The mere provision of a hyperlink to a prior publication does not constitute actionable republication as a matter of law. *See, e.g., Lokhova v. Halper*, 995 F.3d 134, 142 (4th Cir. 2021) ("a mere hyperlink, without more, cannot constitute republication"); *Clark v. Viacom Int'l Inc.*, 617 F. App'x 495, 505-07 (6th Cir. 2015) (same); *In re Phila. Newspapers LLC*, 690 F.3d 161, 174 (3rd Cir. 2012) (same). Nor does copying a previously published statement on the

[18] Plaintiff also alleges that Ahmed "caused IAMC to post the First Story multiple times on its Twitter along with quotes and commentary." Compl. ¶ 27. If Plaintiff is referring to a statement different from the one addressed in Section IV(A)(1), it never identifies the statement, so this allegation must be disregarded.

internet establish liability. *See, e.g.*, *Jankovic v. Int'l Crisis Group*, 494 F.3d 1080, 1087 (D.C. Cir. 2007) ("In the print media world, the copying of an article by a reader -- even for wide distribution -- does not constitute a new publication. The equivalent occurrence should be treated no differently on the Internet.") (internal citation omitted). Rather, an electronic third-party reproduction constitutes "mere continuing impact from past violations [that] is not actionable as a new cause of action." *Id*. (internal quotations omitted).

While these cases generally address the question of whether a claim based on purported republication is timely, the relevant principles apply to Plaintiff's allegations that Ahmed is liable for reposting the First Story. If third-party republication on the internet does not create a new cause of action for statute of limitations purposes, such republication cannot constitute a separate substantive claim for defamation either. Thus, Plaintiff's allegations that Ahmed caused IAMC to republish the First Story are insufficient to establish a defamation claim as a matter of law.

Likewise, commenting upon a previously published article, such as in a Tweet, is not actionable republication. *See Biro v. Condé Nast*, 963 F. Supp. 2d 255, 268 (S.D.N.Y. 2013), *aff'd*, 807 F.3d 541 (2d Cir. 2015), *and aff'd*, 622 F. App'x. 67 (2d Cir. 2015) ("[T]he ability of third parties to comment on articles is a unique advantage of the internet, and thus application of the republication concept" to third-party comments would be inappropriate). Plaintiff's claim should be dismissed for these reasons as well.

B. The Conduct Attributed to Ahmed in Connection with the Second Story Is Not Actionable.

1. The Substance of the Quote Is Not Actionable.

Plaintiff complains of a single quote by Ahmed in the Second Story: "US taxpayers' money being used to keep hate groups in business is absolutely unacceptable and should concern

all who believe in fairness, justice and government accountability[.]" Compl. ¶ 29(a). This statement cannot serve as the basis for Plaintiff's defamation claim for various reasons.

First, the statement is the expression of a subjective (and uncontroversial) opinion. The sentiment that government funds should not support "hate groups" cannot be verified or disproven as a factual matter and is thus a clear statement of opinion. *See Ollman*, 750 F.2d at 981-82. The same is true of the proposition that people who believe in "fairness, justice and government accountability" should be concerned if taxpayer money supports such groups. Indeed, even if Plaintiff were to take the countervailing position that the government *should be* funding hate groups, that would not disprove Ahmed's assertion of personal belief to the contrary. Moreover, the use of the word "concern," *i.e.,* "cautionary language," militates against finding a statement of fact. *See Bauman v. Butowsky*, 377 F. Supp. 3d 1, 11 (D.D.C. 2019) (the word "finds" suggests an expression of opinion); *see Deripaska*, 282 F. Supp. 3d at 147 (use of the word "if" does not indicate "certainty"). For these reasons, the referenced statement is not one of fact.

Second, even if this quotation were somehow construed as a statement of fact (or an opinion implying a statement of fact), there would be no basis to claim it were false. One can scarcely imagine the theory pursuant to which it could be deemed factually false to say "US taxpayers' money being used to keep hate groups in business is absolutely unacceptable and should concern all who believe in fairness, justice and government accountability[.]" Certainly, Plaintiff offers no allegation as to what it contends is false regarding this statement.

Third, as with the statement attributed to Ahmed in connection with the First Story, the quote attributed to him from the Second Story does not even refer to Plaintiff. Given that, the statement is not concerning the plaintiff and does not support the defamation claim.

To the extent Plaintiff might contend the statement impliedly suggests Plaintiff is a hate group and, even if that contention were accepted, it would not create an actionable statement. To characterize an organization in a generically derogatory way as a "hate group" is not a verifiable statement of fact, as numerous authorities establish and thus not actionable as a matter of law. *See Coral Ridge Ministries Media, Inc. v. Amazon.com, Inc.*, 406 F. Supp. 3d 1258, 1277 (M.D. Ala. 2019) (phrase "hate group" not verifiable); *Brimelow v. New York Times Co.*, No. 20 Civ. 222, 2020 U.S. Dist. LEXIS 237463, at *17 (S.D.N.Y. Dec. 17, 2020) (term "white nationalist" is opinion); *Ollman*, 750 F.2d at 987 (referring to plaintiff as "an outspoken proponent of political Marxism" not actionable); *Arpaio v. Cottle*, 404 F. Supp. 3d 80, 85 (D.D.C. 2019) (phrases "sadist" and "true American villain" not verifiable); *Weyrich v. New Republic, Inc.*, 235 F.3d 617, 625-26 (D.C. Cir. 2001) (referring to plaintiff's "political extremism and personal extremism" not actionable); *Competitive Enter. Inst. v. Mann*, 150 A.3d 1213, 1248 (D.C. 2016) (calling someone "fascist" not verifiable) (citing *Buckley v. Littell*, 539 F.2d 882, 893 (2d Cir. 1976)); *Greenbelt Coop Publ'g Ass'n v. Bresler*, 398 U.S. 6, 13–14 (1970) (stating plaintiff engaged in "blackmail," which was literally untrue, not actionable).

2. The "Press Release" Is Not Actionable.

Plaintiff alleges that Ahmed "caused" IAMC to republish the Second Story as a "Press Release" on IAMC's website with the addition of the following quote: "The 'Coalition to Stop Genocide in India' is committed to ensuring that American institutions and discourse are safeguarded from the virulent Hindutva ideology. To that end, the coalition will continue to expose Hindutva front organizations in the US and their role in normalizing the human rights abuses and religious freedom violations in India." Compl. ¶ 30.

For reasons addressed in Section IV(A)(2), the allegation that Ahmed caused the Second Story to be republished on IAMC's website simply does not state a claim.

Moreover, the substance of the quote Plaintiff alleges accompanied the republication does not support Plaintiff's defamation claim. Plaintiff has pled nothing to suggest the statement is false in describing the goals of the Coalition. If Plaintiff intends to argue the statement is impliedly false and implicates Plaintiff by referring to organizations that support Hindutva ideology (a position the Complaint does not articulate), such argument should be rejected because Plaintiff has never claimed it does *not* support Hindutva ideology. *Libre*, 311 F. Supp. 3d at 157 n.5 (a plaintiff's failure to challenge fact as false "would serve as an additional reason to doubt the plausibility of its allegations with respect to falsity").

To the contrary, the Twitter feed of Plaintiff's Executive Director contains repeated statements of support for that very ideology and criticism for those who oppose the ideology. *See*, *e.g.*, Suhag A. Shukla (@SuhagAShukla), TWITTER, https://twitter.com/SuhagAShukla (last visited September 2, 2021):

- "We've sent follow up letters to the 41 universities initially listed as sponsoring the upcoming Dismantling Global Hindutva conference & you've sent more than 900k emails! Well done!" (retweeted August 27, 2021);
- "What the [DGH} conference organisers and the South Asia Scholar Collective don't seem to acknowledge is that the right to free speech also means that those [of us] speaking out against Hinduphobia also have a right to speak...[our] minds." (posted August 26, 2021);
- "I think there's an actual oath every South Asian studies grad school student signs, that in any 'scholarship' and 'activism' they partake in, one's level of hate for 'Hindutva' must always be proportional to one's denial of #Hinduphobia!" (posted August 23, 2021); and
- "Elucidation requires dialogue. But academics sponsoring @dghconference (appreciate that you're not among them) have already declared that Hindutva, undefined as you admit, must be Dismantled. The foundations of the conference are preconceived bias & animus. Ergo, we protest." (posted August 23, 2021).

Thus, the statement in the "press release" cannot be considered even an impliedly false statement regarding Plaintiff.

Given that Plaintiff champions Hindutva, there also is no legitimate basis for Plaintiff to contend Ahmed's purported statement is defamatory based on its references to Hindutva. Put differently, Plaintiff cannot both embrace a philosophy and claim it is defamed by being associated with the philosophy.

Finally, Plaintiff again fails to offer non-conclusory allegations that Ahmed himself had anything to do with making this statement. Plaintiff only vaguely alleges that Ahmed "caused" the statement to be published in some unspecified fashion. And, notably, the statement is not even attributed to IAMC, but to the "Coalition," which also is not a party to this lawsuit. *See* Compl. ¶ 30(a). As such, this portion of Plaintiff's claim is not plausibly pled as against Ahmed.

3. The Retweet Is Not Actionable.

Plaintiff alleges Ahmed "caused" IAMC to retweet Defendant Truschke's Twitter post of the Second Story along with her comment that "Indian Americans of diverse backgrounds call for probe of US-based Hindu nationalist groups. [¶] As a scholar of South Asia, I can attest that some of these groups spread hate & use intimidation tactics. [¶] These things are dangerous and unwelcome on US soil[.] https://www.aljazeera.com/news/2021/4/2/hindu-right-wing-groups-in-us-got-833000-of-federal-covid-fund[.]" Compl. ¶ 31(a). It is unclear whether Plaintiff asserts that this Retweet was defamatory itself or offers it simply in putative support of its conspiracy theory. *See id*. ¶ 31 (referring to this statement as "illustrating [IAMC's] coordinated efforts with other Defendants").

If it is the former, Plaintiff's position is without basis. First, as addressed in Section IV(A)(2), the provision of a link to a prior statement is not actionable as a matter of law. Neither is providing electronically a copy of a prior statement.

Second, the retweeted statement that "Indian Americans of diverse backgrounds call for probe of US-based Hindu nationalist groups" is not remotely false, particularly given that the Second Story describes how a group of Indian-American activists and groups had called for such an investigation. *See* Goldberger Decl. Ex. C. As to the portion of the statement that says, "[a]s a scholar of South Asia, I can attest that some of these groups spread hate & use intimidation tactics. [¶] These things are dangerous and unwelcome on US soil," this is a clear statement of opinion. In any event, neither portion of the statement refers to Plaintiff. Given that the original Tweet is not actionable, the Retweet also cannot be actionable.

And, yet again, Plaintiff fails to plausibly allege that Ahmed personally did anything in connection with this Retweet. Rather, Plaintiff alleges, without explanation, only that "Ahmed caused IAMC" to make this Retweet as part of a supposed coordinated effort between *IAMC* and other Defendants. Compl. ¶ 31. This allegation actually underscores that Plaintiff is impermissibly conflating IAMC, which is not a party, with Ahmed personally, and seeking to hold Ahmed personally liable for actions allegedly taken by IAMC.

C. Neither of the Articles Is Actionable.

Beyond the fact that Plaintiff cannot establish a claim for defamation against Ahmed based on alleged republication, the substance of the republished articles is not actionable. That, perhaps, is the reason why Plaintiff did not sue Al Jazeera, the publisher, or Raqib Naik, the author.

1. The First Story Is Not Actionable.

Plaintiff alleges that "[t]he First Story falsely refers to HAF as a 'Hindu right-wing group in [the] US' that is 'linked to Hindu nationalist organisations in India'" and that "further falsely states that HAF has 'ties to Hindu supremacist and religious groups'." Compl. ¶ 24.

Plaintiff cannot seriously claim it is false for the Hindu American Foundation, an advocacy group for Hindus and Hinduism, to be referred to as a "Hindu" organization. Nor could Plaintiff legitimately argue that the word "Hindu" is in any way defamatory. Similarly, there is no credible basis to find the term "right-wing" to be defamatory if Plaintiff is taking that position; indeed, the phrase was adopted long ago by, and has long been used to describe, a subset of one of the two major political parties in the United States and tens of millions of its supporters. It similarly is not defamatory to refer to organizations as "nationalist" or "supremacist," as established by the numerous authorities cited in Section IV(B)(1). Therefore, it cannot be defamatory to make the more attenuated statement that Plaintiff is linked to such organizations. Finally, as to the statement that Plaintiff has "ties to Hindu . . . religious groups," it is difficult to imagine Plaintiff actually contends that the statement is false. Also, the word "religious" is not defamatory in the slightest and Plaintiff cannot have been defamed by being tied to "religious groups."

Plaintiff further complains that the First Story states, "New York-based Sunita Viswanath, co-founder of Hindus for Human Rights, expressed concern that the US pandemic relief funds might end up furthering hate campaign against Muslims and other minorities in India." Compl. ¶ 25(a)(i). Plaintiff further alleges that Viswanath was quoted as saying, "[a]ny American nonprofit that perpetuates Islamophobia and other forms of hate should not receive federal relief funds." *Id.* ¶ 25(a)(iii).

These are not statements of fact, but opinion. *See Bauman*, 377 F. Supp. 3d at 10–11 ("Expressions of a subjective view, an interpretation, a theory, conjecture, or surmise are not provably false and thus cannot undergird a claim of defamation."). Neither statement could be verified factually, even if one were to argue that people should *not* be concerned about relief funds supporting campaigns that target minorities or that hate groups *should* get such funds.

Also, as addressed in Section IV(B)(1), the word "concern" strongly indicates the expression of an opinion. Further, an expression of concern about what "might" happen in the future is *a priori* not a statement of fact. *See, e.g., Cenveo Corp. v. Celumsolutions Software GmbH*, 504 F. Supp. 2d 574, 579 (D. Minn. 2007) (a "statement about future events . . . does not imply the existence of a fact"). Separately, these statements do not concern Plaintiff, rendering them inapposite.

Lastly, Plaintiff claims the First Story was defamatory because it included a quote from Viswanath that "[a]ll these organisations [including HAF] are sympathetic to the Hindu supremacist ideology. Their parent organisations continue to spread hatred in Hindu communities towards Muslims and Christians,'…" Compl. ¶ 25(a)(ii) (second bracket in original). The bracketed text included by Plaintiff is quite telling. The original quotation makes no mention of Plaintiff, but rather refers to unspecified "organizations" and "parent organizations." Thus, this statement also does not concern Plaintiff. Moreover, for reasons discussed, references to "supremacist" ideology, even if they were connected to Plaintiff, would not be verifiable.

2. The Second Story Is Not Actionable.[19]

Plaintiff asserts that the Second Story quotes Defendant Rajagopal as saying "[t]he rise of HAF and other organisations *linked with Hindutva* has emboldened Hindu supremacist organizations in India, while also stifling the moderate Hindu voices here in the US[.]" Compl. ¶ 29(b) (emphasis added). Plaintiff also refers to the following quotation: "[T]he five groups – [including] Hindu American Foundation (HAF) – are '*US-based front organisations for Hindutva*, the supremacist ideology that is the driving force behind much of the persecution of Christians, Muslims, Dalits and other minorities in India'." *Id.* ¶ 29(d)(ii) (emphasis added). In a

[19] The quote attributed to Ahmed in the Second Story (*see* Compl. ¶ 29(a)), was addressed above and will not be addressed again in the interest of brevity.

similar vein, Plaintiff cites the following statement: "There are families across America still reeling from the human and economic toll of COVID-19, while groups [like HAF] that seem to be essentially serving as front organizations for a violent and supremacist *ideology* [*i.e.,* Hindutva] are raking in the windfall from federal COVID funding." *Id.* ¶ 29(d)(iii) (former bracket in original) (emphasis added).

As addressed, Plaintiff never contends it does anything other than support Hindutva. In fact, its Executive Director has expressly voiced support for the philosophy. *See* Section IV(B)(2). Therefore, these statements as they relate to Plaintiff, *i.e.,* asserting that Plaintiff is associated with Hindutva, are not false. To the extent Plaintiff objects to the description of Hindutva as "supremacist," that position would be unavailing. *See* Section IV(B)(1).

Plaintiff also cites a quote from Defendant Prabhudoss to the effect that "[g]overnment watchdog groups as well as human rights organisations need to take serious note of the misappropriation of COVID funding by Hindu supremacist groups the United States,'…" Compl. ¶ 29(c). Similarly, Plaintiff alleges that the article states, "'[a] comprehensive probe and corrective action is needed to ensure that hard-working American taxpayers' money is not funneled towards sponsoring hate, persecution and the slow genocide of minorities and marginalised communities in India.'" *Id.* ¶ 29(d)(vi). These statements do not in and of themselves concern Plaintiff. In addition, the statements express opinions about what actions *should* be taken to ensure public funds are not used to support groups that act contrary to U.S. policy and mainstream U.S. values, which statements are not subject to verification. *See, e.g., Bauman* 377 F. Supp. 3d at 11 (opining plaintiff "deserved serious scrutiny" not actionable); *Deripaska*, 282 F. Supp. 3d at 148 (not actionable to say conduct was "worth investigating").

Finally, Plaintiff claims the Second Story was defamatory because it referred to the groups receiving relief funds as having "existential links" with Rashtriya Swayamsevak Sangh

(previously defined as "RSS"). Compl. ¶ 29(d)(i). Plaintiff artfully alleges it is not a "member or subsidiary" of RSS and that it does not provide money to RSS. *Id.* ¶ 36. However, Plaintiff does not deny having what could easily be described as links to the organization. Indeed, Plaintiff never denies the following specific statements in the First Story:

> Ramesh Bhutada's [an officer with the U.S. affiliate of the RSS] son Rishi is a member of the HAF board of directors and its treasurer.[20] According to the most recent tax returns of the Bhutada Family Foundation, it donated $47,500 to Sewa International and $30,000 each to HAF and HSS in 2018.

Goldberger Decl. Ex. A at 9. As such, the statement about "links" between the RSS and Plaintiff cannot be deemed definitively false.[21]

D. Ahmed Is Not Liable for Statements Generally Attributed to "Defendants."

Plaintiff makes serial allegations about what "Defendants" supposedly did collectively in an attempt to hold Ahmed personally liable for all such actions. *See* Compl. ¶¶ 14, 20, 24, 28, 35, 37. Indeed, Plaintiff goes so far as to contend that "[w]henever in this complaint reference is made to *any act of a defendant*, such *allegation shall be deemed to mean the acts of* the defendants named in the particular cause of action, and *each of them, acting individually*, jointly and severally." *Id.* ¶ 15 (emphasis added).

There is no basis to find Ahmed personally liable for anything Plaintiff claims was done by "Defendants" as a group without a specific allegation relating to Ahmed. That is especially true here, given that Plaintiff makes certain of these allegations "on information and belief." *See id.* ¶¶ 14, 28; *Doe v. Lee*, No. 19-cv-0085 (DLF), 2020 WL 759177, at *6 (D.D.C. Feb. 14, 2020) ("conclusory allegations supported by information and belief are insufficient to survive a motion

[20] Plaintiff's tax filings confirm that Rishi Bhutada serves on Plaintiff's board and is its treasurer. Goldberger Decl. Ex. B at 7.

[21] Plaintiff also refers to two statements in the article about RSS's activities. Compl. ¶ 29(d)(iv)-(v). Obviously, these statements do not concern Plaintiff. Also, rather than claiming these statements about RSS are false, Plaintiff simply seeks to distance itself from RSS. *Id.* ¶ 36. Therefore, these statements are irrelevant to Plaintiff's claim.

to dismiss." (citation omitted)); *see also Baumel v. Syrian Arab Republic*, 667 F. Supp. 2d 39, 49 (D.D.C. 2009) ("information and belief" insufficient).

Plaintiff's inchoate attempt to hold Ahmed personally responsible for the alleged actions of the "Coalition" similarly fails. Without specificity, Plaintiff alleges, "[o]n information and belief, *Defendants* caused [certain] statements to be attributed to the Coalition," an assertion that does not attribute any conduct to Ahmed. Compl. ¶ 28 (emphasis added). Plaintiff's allegation that "IAMC's Advocacy Director, *non-party* Ajit Sahi, serves on the Board of Advisors with Defendant Truschke, for another member of the Coalition, Students Against Hindutva Ideology" obviously is inapposite as to Ahmed personally. *See id.* ¶ 21 (emphasis added). And Plaintiff's statement that Ahmed "caused" a press release attributed to the Coalition to be published is insufficient to create liability, as addressed. *See* Section IV(B)(2).

E. Plaintiff Is a Public Figure and Has Not Sufficiently Pled Actual Malice.

Beyond the failures to plead defamation as set forth above, Plaintiff's defamation claim fails independently because Plaintiff failed to plead actual malice. "The First Amendment requires public figures suing in defamation to 'demonstrate by at least a fair preponderance of the evidence that the [allegedly] defamatory statement is false,' with close cases decided against them." *Fairbanks v. Roller*, 314 F. Supp. 3d 85, 90 (D.D.C. 2018) (quoting *Liberty Lobby, Inc. v. Dow Jones & Co.*, 838 F.2d 1287, 1292 (D.C. Cir. 1988)). "[A] statement of opinion relating to matters of public concern which does not contain a provably false factual connotation will receive full constitutional protection." *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 20 (1990). As such, if a plaintiff in a defamation suit is a "public figure," the plaintiff must prove by clear and convincing evidence that the defendant made a false statement with "actual malice." *New York Times Co. v. Sullivan*, 376 U.S. 254, 280 (1964).

1. Plaintiff Is a Public Figure.

Whether a plaintiff is a public figure is a question of law for the Court to decide. *Liberty Lobby, Inc. v. Anderson*, 562 F. Supp. 201, 297 (D.D.C. 1983), *aff'd in part and rev'd in part on other grounds*, 746 F.2d 1563 (D.C. Cir. 1984). As a threshold matter, "[c]orporate plaintiffs are treated as public figures as a matter of law in defamation actions brought against mass media defendants involving matters of legitimate public interest." *Oao Alfa Bank v. Ctr. for Pub. Integrity*, 387 F. Supp. 2d 20, 47-48 (D.D.C. 2005). Here, Plaintiff is a corporate entity (with more than 40,000 Twitter followers) that advocates on geo-political issues. This lawsuit concerns statements made in the press regarding those very same geo-political issues, which have been the subject of extensive media coverage and general attention. Accordingly, there can be no legitimate dispute that Plaintiff is a public figure.

Even without its corporate status, Plaintiff is, at a minimum, a limited public figure in the context of this case.[22] A three-part test is used to determine if a plaintiff is such a limited public figure. *See Waldbaum v. Fairchild Publications*, 627 F.2d 1287 (D.C. Cir. 1980). First, the court must find a matter of public controversy which "affects the general public or some segment of it in an appreciable way." *Id.* at 1296. Second, the plaintiff must be involved in the dispute in a way that is more than "trivial or tangential." *Id*. at 1297. Third, the alleged defamation must relate to the plaintiff's role in the controversy. *Id*. at 1298. Multiple controversies may exist in a case. *Jankovic v. Int'l Crisis Grp.*, 822 F.3d 576, 586 (D.C. Cir. 2016). Further, a public figure may be an individual or an organization. *Bannum, Inc. v. Citizens for a Safe Ward Five, Inc.*, 383 F. Supp. 2d 32 (D.D.C. 2005).

[22] A *general* purpose public figure is one whose "pervasive fame and notoriety" affords them public figure status "for all purposes and in all contexts." *Gertz*, 418 U.S. at 351.

Here, the first element is easily established. The distribution of COVID–relief funds is plainly a matter that affects not just a segment of the public, but the public generally–and in a tangible manner. Millions of individual Americans and U.S. organizations have received relief funds, and tremendous attention has been paid to the manner in which such funds are disbursed. The disbursement of those funds to organizations that may take positions and actions contrary to U.S. foreign policy only cements the public nature of the controversy at issue, which has implications that go well beyond the parties in this case.

Second, Plaintiff is deeply involved in this controversy. Plaintiff does not deny it has received COVID–relief funds. Plaintiff avers that it "is a non-partisan and non-profit American organization that is committed to educating the public about Hindus and Hinduism . . . HAF works directly with educators and journalists to ensure accurate understanding of Hindus and Hinduism, and with policymakers and key stakeholders to champion issues of concern to Hindu Americans . . . ." Compl. ¶ 19. Plaintiff also raises funds from the public. *E.g., id.* ¶ 35. In short, Plaintiff has a significant public presence, including through its participation in efforts to advocate on a range of issues relating to Hinduism. Thus, Plaintiff is a key player in the controversy regarding the potential disbursement of relief funds to organizations that, in the name of Hinduism, support causes antithetical to U.S. interests.

Finally, the statements and actions Plaintiff attributed to Ahmed relate directly to Plaintiff's receipt and potential disbursement of relief funds. Indeed, these alleged statements and actions relate to nothing else and thus go directly to Plaintiff's role in the relevant controversy.

2. Plaintiff Has Not Sufficiently Alleged Actual Malice.

A public figure must adequately allege that the defendant made a defamatory statement "with knowledge that it was false or with reckless disregard of whether it was false or not." *Sullivan*, 376 U.S. at 280. Because free debate inevitably leads to some mistaken statements and

punishment of these statements would chill the freedom of speech, reckless disregard requires a "high degree of awareness of . . . probable falsity." *Garrison v. La.*, 379 U.S. 64, 74 (1964).

"The actual malice inquiry focuses on the defendant's state of mind at the time of publication." *Kahl v. Bureau of Nat'l Affairs, Inc.*, 856 F.3d 106, 118 (D.C. Cir. 2017). Even "an extreme departure from professional standards" coupled with an illicit motive does not satisfy the actual malice standard. *Harte-Hanks Commc'ns, Inc. v. Connaughton*, 491 U.S. 657, 665 (1989); *see also Parsi v. Daioleslam*, 890 F. Supp. 2d 77, 81 (D.D.C. 2012) ("Subjective ill-will does not establish actual malice, nor does a malevolent motive for publication. Even highly unreasonable conduct constituting an extreme departure from the standards of investigation and reporting ordinarily adhered to by responsible publishers does not establish actual malice.") (internal citation omitted); *Deripaska*, 282 F. Supp. 3d at 143–44 (showing malice typically involves "evidence of fabrication, [or] evidence that the story was so inherently improbable that only a reckless man would have put it in circulation . . . .") (quoting *Tavoulareas v. Piro*, 817 F.2d 762, 788–89 (D.C. Cir. 1987)).

Plaintiff does not come close to satisfying the First Amendment's demanding standards for public figures bringing defamation actions. Plaintiff alleges only that there are "extensive publicly available and readily accessible financials and other documents that directly contradict the Defamatory Statements and establish that no funds were provided by HAF to any alleged Indian nationalist or supremacist organizations." Compl. ¶ 37. These publicly available documents include Plaintiff's "Form 990s, Audited Financial Statements" and related documents. *Id*. According to Plaintiff, "[b]ecause there were obvious reasons to doubt the accuracy of the Defamatory Statements, Defendants had an obligation to verify the truth, which they failed to do, thereby demonstrating that they published the Defamatory Statements with actual malice." *Id.* ¶ 40.

As a threshold matter, Plaintiff's tax filings—which Plaintiff did not submit to the Court—hardly provide a complete picture of Plaintiff's activities. For example, several years ago, Plaintiff temporarily lost its tax-exempt status for repeated failures to file 990 forms. Goldberger Decl. Ex. E at 3. Thus, even if there were—as Plaintiff suggests—some presumption that tax filings must be accepted as comprehensively true (there is not), such presumption would be unwarranted here.

Moreover, the content of the tax filings hardly establishes that Plaintiff did not send money to "Indian nationalist or supremacist organizations." For example, Plaintiff's 2018 filing states that Plaintiff sent $22,000 to an unidentified recipient in an unidentified location in "South Asia" for "program services," "community relations" and "refugee aid."[23] Goldberger Decl. Ex. F at 35-36. Plaintiff's 2017 filing states that Plaintiff sent $17,599 to an unidentified recipient in "India" for "program services" and "refugee aid." *Id*. Ex. G at 33-34. While these contributions may have been for legitimate purposes, the filings' vague formulations do not establish that. And, it is entirely possible that, while Plaintiff might consider the recipient of these or other funds not to be "Indian nationalist or supremacist organizations," an objective observer would conclude otherwise. For these reasons, the filings hardly are definitive as to whether Plaintiff has funded "nationalist or supremacist organizations."

Even if the tax filings definitively addressed that issue, there is no allegation Ahmed was aware of the documents. As such, Plaintiff essentially claims that Ahmed had an affirmative duty to locate and examine these documents before allegedly making general comments that did not specifically reference Plaintiff, a position without basis. *See Harte-Hanks*, 491 U.S. at 688 ("[F]ailure to investigate before publishing . . . is not sufficient to establish reckless disregard.");

[23] The form states this specific amount was spent on each category. It is unclear whether one payment of $22,000 was made and is being described in three different ways or whether more than one payment was made.

St. Amant v. Thompson, 390 U.S. 727, 733 (1968) ("Failure to investigate does not in itself establish bad faith [for purposes of the actual malice test].").

Most fundamentally, though, Plaintiff's argument that its filings show it did not provide funds to nationalist or supremacist groups is irrelevant as to Ahmed, because Plaintiff never alleges Ahmed said Plaintiff was sending funds to such organizations. *See* Compl. ¶¶ 29(a), 30. Therefore, even assuming *arguendo* that Plaintiff's filings were (i) accurate and (ii) conclusively established that funds did not go to nationalist or supremacist groups, examining those filings would not have disproven anything Ahmed is alleged to have said. In sum, Plaintiff has not remotely pled actual malice.

F. Plaintiff Has Not Sufficiently Pled Damages.

A plaintiff must allege either that a defamatory statement is actionable as a matter of law irrespective of special harm (defamation per se) or, if not, that the publication caused special harm. *Franklin v. Pepco Holdings, Inc. (PHI)*, 875 F. Supp. 2d 66, 74 (D.D.C. 2012). There are no allegations to support a finding of defamation per se here and Plaintiff has failed to plead special harm.

A false statement is considered defamatory per se when there is such a likelihood of degrading injury to a party's reputation that proof of actual harm need not be shown. *Carey v. Piphus*, 435 U.S. 247, 262 (1978). Statements that satisfy this standard typically involve representations connecting the plaintiff to a crime, a repugnant disease, a matter adversely affecting the person's ability to work in a profession, or gross sexual misconduct. *Id.* at 262 n. 18 (citing Restatement (Second) of Torts §§ 558–59, 569–74 (1977)). No such statements are alleged here and Plaintiff barely attempts to contend otherwise, alleging only that "[t]hese false accusations are defamatory per se and are highly damaging to HAF." Compl. ¶ 36.

As such, Plaintiff must plead special damages, which requires specificity. *See FAA v. Cooper*, 566 U.S. 284, 295–96 (2012). To satisfy this standard, a plaintiff can identify either specific pecuniary losses or establish the level of its financial activity before and after the disparaging publication with evidence of causation of any diminution in such activity. *Art Metal–U.S.A., Inc. v. United States*, 753 F.2d 1151, 1155 n. 6 (D.C. Cir.1985); *see also Golden Palace, Inc. v. Nat'l Broad. Co.*, 386 F. Supp. 107, 110 (D.D.C. 1974) (plaintiff failed to plead special damages despite alleging a specific amount of lost profits and loss of use of its facilities because plaintiff failed to allege facts showing damages were direct result of defendant's statements). Moreover, alleging that there is the potential risk of future harm does not suffice. *See Xereas v. Heiss*, 933 F. Supp. 2d 1, 18 (D.D.C. 2013); *Franklin*, 875 F. Supp. 2d at 75 (allegation that plaintiff "risk[ed] having her credit suffer" insufficient to plead special damages because "she [did] not say that this harm has actually occurred").

Plaintiff has failed to meet these standards. As addressed in Section II above, Plaintiff complains that Ahmed's statements have caused harm with respect to donors. However, Plaintiff does not identify a single donor whose contributions have been lost or specify an amount of allegedly lost donations, let alone tie any lost contribution to Ahmed's alleged conduct.

In fact, Plaintiff does not allege that it has suffered any actual financial harm, instead holding out the possibility that such harm *might* be suffered in the future. *See* Compl. ¶ 16 (Plaintiff "has lost and/or expended and/*or will lose* and/or expend at least $75,000 as a result of the events that occurred") (emphasis added); *see also id.* ¶ 36 ("[The false accusations] have caused, *or will cause* substantial harm to HAF") (emphasis added).

That Plaintiff offers no specificity as to alleged harm and does not allege any harm has yet occurred is perhaps unsurprising, given that Plaintiff's Executive Director has tweeted about the remarkable support Plaintiff is receiving in connection with this case: "Getting so many

DM's, texts and calls asking how they can support @HinduAmerica's legal action." Suhag A. Shukla (@SuhagAShukla), TWITTER, https://twitter.com/SuhagAShukla/status/1384320360737394695?s=20 (last visited September 2, 2021). For all of these reasons, Plaintiff has fallen far short of pleading damages adequately.

V. Plaintiff's Civil Conspiracy Claim Should Be Dismissed Pursuant to Rule 12(b)(6).

To state a claim for conspiracy, a plaintiff must establish the elements of the alleged underlying tort because "civil conspiracy is not an independent tort but only a means for establishing vicarious liability for an underlying tort." *Nader v. Democratic Nat'l Comm.*, 567 F.3d 692, 697 (D.C. Cir. 2009) (internal citations and marks omitted). Here, for reasons discussed, there is no viable defamation claim and the conspiracy claim therefore fails.

Beyond that, "[t]o establish a prima facie case of civil conspiracy, [a plaintiff] ha[s] to prove (1) an agreement between two or more persons (2) to participate in an unlawful act, and (3) an injury caused by an unlawful overt act performed by one of the parties to the agreement pursuant to, and in furtherance of, the common scheme." *McMullen v. Synchrony Bank*, 164 F. Supp. 3d 77, 96-97 (D.D.C. 2016) (citations and internal quotations marks omitted). "In pleading that a defendant entered into an agreement the plaintiff must set forth more than just conclusory allegations of [the] agreement to sustain a claim of conspiracy against a motion to dismiss." *Mattiaccio v. DHA Grp., Inc.*, 20 F. Supp. 3d 220, 230 (D.D.C. 2014) (internal quotations and citations omitted).

Plaintiff has failed to plead these elements adequately, instead attempting to rely on a series of wholly conclusory allegations. *See* Compl. ¶ 4 ("Defendants routinely conspire to spread mistruths about HAF . . . To further their aim, and perpetuate the conspiracy, Defendants use each other as corroborating sources."); *id.* ¶ 17 ("Such minimum contacts include their purposeful conduct in making and conspiring to publish defamatory statements"); *id.* ¶ 23

("Defendants knowingly, willfully and intentionally conspired, agreed and coordinated amongst themselves to defame HAF in two articles published on AlJazeera.com."); *id.* ¶ 28 ("In furtherance of Defendants' conspiracy, on or about April 8, 2021, Defendants caused additional false and defamatory statements to be published in the 'Second Story.'"). In fact, Plaintiff ultimately can do no more than claim "on information and belief" that "Defendants, and each of them, were and are . . . co-conspirators." *Id.* ¶ 14.[24] Such allegations plainly fail to state a claim, independent of the non-existence of any underlying tort. *See Acosta Orellana v. CropLife Int'l,* 711 F. Supp. 2d 81, 113 (D.D.C. 2010). Also, as addressed, Plaintiff has failed to plead the requisite injury.

CONCLUSION

For each of the foregoing reasons, Ahmed respectfully requests that this Court grant his motion and enter an order dismissing the Complaint as against him, with prejudice, and grant such other and further relief as the Court deems just and proper.

[24] Plaintiff alleges that "[a]s further confirmation of the conspiracy . . . on information and belief, Defendant Ahmed arranged for Mr. Hameed Naik to appear at IAMC's virtual strategic meeting of its Executive Team." Compl. ¶ 32. Plaintiff makes no attempt to explain how, even if true, that allegation would establish a conspiracy among Defendants, given that Naik is not a party.

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Respectfully submitted,

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