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July 20, 2015

Catherine O'Hagan Wolfe, Clerk of Court
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

Re: *Shew v. Malloy*, No. 14-319-cv

Dear Ms. Wolfe:

The State appellees submit this letter under Fed. R. App. P. 28(j) to respond to appellants' Rule 28(j) letter regarding the Supreme Court's decision in *Johnson v. United States*, No. 13-7120, 135 S.Ct. 2551 (U.S. June 26, 2015). Appellants assert that the *Johnson* decision supports their vagueness challenges to Connecticut Public Act 13-3, as amended by Public Act 13-220, ("the Act"), but it does not.

The language, context and troubled history of litigation of the provision at issue in *Johnson* distinguish it from the Act. Under the vagueness standard appellants cite from *Johnson*—that a statute is unconstitutionally vague if it “fails to give ordinary people fair notice of the conduct it punishes, or [is] so standardless that it invites arbitrary enforcement”—the Act it is constitutional. As appellees discuss at length in their opposition brief, under any formulation of the vagueness test, the challenged provisions of the Act are constitutional. Appellees Br. pp. 95-105.

Moreover, the *Johnson* Court highlighted the problematic history of litigation involving the clause at issue. It noted that its own “repeated attempts and repeated failures to craft a principled and objective standard out of the residual clause confirm its hopeless indeterminacy.” Slip Op. at 7. The Court also noted the lower courts “pervasive disagreement about the nature of the [statutory] inquiry.” *Id.* at 9. None of this can be said of the Act. The record in this case demonstrates that Connecticut state officials interpret the Act in a manner that avoids arbitrary enforcement and provides citizens notice of its requirements. See JA-1027 ¶28; JA-1090 ¶11; JA-1092 ¶¶22-24.

Respectfully yours,

/s/ Maura Murphy Osborne
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cc: Counsel of record (via ECF)