23-1322

IN THE

United States Court of Appeals for the Second Circuit

IN RE RICHARD JOSEPH LEGENZA

****

GINA DEL ROSARIO,

Plaintiff-Appellee

v.

RICHARD JOSEPH LEGENZA,

Debtor-Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK (No. 22-cv-835-JLS)

FINAL FORM BRIEF OF PLAINTIFF-APPELLEE

M. Salman Ravala, Esq.
CRISCIONE RAVALA, LLP
250 Park Ave. - 7th Floor
New York, New York 10019
Tel: (212) 920-7142

Attorneys for Plaintiff-Appellee

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

COUNTERSTATEMENT OF FACTS

While residing in Las Vegas, Nevada, Plaintiff-Appellee Gina Del Rosario ("Del Rosario") provided Defendant-Appellant Richard Legenza ("Legenza") with funds to develop Legenza's casino-based blackjack game, "Wild Aces." ([270] Dkt. 16 at 1-2)[1]

Prior to this transaction, Legenza had, through in-person meetings and written communications, represented to Del Rosario that he possessed extensive experience in the gambling and casino industry. Trusting these representations, Del Rosario made the loan entirely in cash. The parties then executed a Loan and Royalty Agreement (the "Agreement"). ([270] Dkt. 16 at 1-2). Within the Agreement, Legenza acknowledged receipt of $70,000, personally guaranteed the loan, and agreed that if Wild Aces was not placed in at least 30 casinos within 30 months, Del Rosario could cancel the Agreement and Legenza would have 60 days to return the owed money. ([14] Bankr. Dkt. 1).

Over the subsequent 30 months, Wild Aces failed to be placed in 30 casinos. Consequently, Del Rosario exercised her right to cancel the Agreement and requested the return of her funds. Legenza, however, informed her that he lacked the funds and was unable to repay her. Ultimately, Del Rosario initiated a lawsuit against

[1] Citations to the docket of the underlying bankruptcy case (No. 21-1036) will be cited as "Bankr. Dkt." Citations to the appellate docket of the District Court case will be cited as "Dkt."

Legenza in Las Vegas. By that time, Legenza had relocated to Buffalo. ([265] Bankr. Dkt. 67 at 2). According to his testimony in the bankruptcy case during his § 341 Meeting of Creditors however, Legenza was now out of the casino and gambling business and was employed as a salesman for Mobile EcoSteam, a company providing car washing services to customers in the Buffalo area. ([184] Dkt. 10).

During the bankruptcy proceedings, Legenza admitted that instead of using Del Rosario's funds to develop Wild Aces, he utilized $15,000 of it for moving expenses to relocate his family and belongings from Las Vegas to Buffalo, and to reside in a hotel suite until the $700,000 home he rented in Amherst, NY was ready for occupancy. ([184] Dkt. 10). Legenza further claimed that he kept a "cash journal" to record all of the transactions involving Del Rosario's funds, but this cash journal, along with all other financial records, was allegedly lost by the moving company that he used to move from Las Vegas to Buffalo. ([265] Bankr. Dkt. 67 at 3). In other words, according to Legenza, all financial records had vanished entirely.

a.) <u>The Las Vegas Proceeding</u>

On June 3, 2020, Del Rosario sued Legenza in Nevada state court, asserting various contract, fraud, and misrepresentation claims against him. ([4] Bankr. Dkt. 1). Initially representing himself, Legenza later hired a business litigation firm for his defense. During the discovery phase, Del Rosario served Legenza with her First Set of Interrogatories and First Set of Requests for Production of Documents,

seeking basic yet pertinent documents and information such as: (i) bank records of her funds, (ii) receipts showing the expenditure of her money, (iii) financial records for Wild Aces post-loan, (iv) tax records regarding the loan, and (v) explanations for the depleted funds if they were gone.

From the outset, Legenza refused to respond to any discovery requests in the state court case. Del Rosario's counsel was compelled to engage in extensive efforts to avoid court intervention, including numerous telephone conferences, emails, and letters to Legenza's attorneys, all in vain. Consequently, Del Rosario's counsel filed a Motion to Compel Discovery, which the Las Vegas court granted in full, ordering Legenza to comply within 14 days. Legenza, however, continued to ignore the Order, leading to a second hearing where the court reiterated its Order and imposed attorney fees of $1,125.00. Legenza still refused to comply, prompting Del Rosario to file a Motion for Default Judgment. A hearing was set, but four days prior, Legenza filed a *pro se* Chapter 13 bankruptcy in Buffalo, thus staying the Nevada proceedings. The Nevada court noted on record its inclination to enter the Default Judgment had the bankruptcy not been filed. Subsequently, Legenza hired counsel to convert his Chapter 13 to a Chapter 7 bankruptcy. ([265] Bankr. Dkt. 67).

b.) <u>The Adversary Proceeding</u>

On November 22, 2021, Del Rosario initiated an Adversary Proceeding in response to Legenza's bankruptcy. ([4] Bankr. Dkt. 1). Following a pretrial

conference, Chief Judge Carl L. Bucki for the United States Bankruptcy Court for the Western District of New York ordered written discovery to commence, with the possibility of oral discovery to be considered later. Del Rosario served Legenza with her First Set of Requests for Production of Documents and five Interrogatories, mirroring the Nevada discovery requests. Legenza again failed to timely respond, prompting Del Rosario's counsel to repeatedly reach out, urging compliance to no avail. ([265] Bankr. Dkt. 67).

Two weeks post-deadline, Legenza finally responded, revealing the lack of any financial documentation related to Del Rosario's loan. This response clarified why Legenza had been uncooperative in the Nevada case and provided Del Rosario sufficient grounds to file and win her motion for summary judgment. Legenza disclosed that he had never deposited Del Rosario's money into a bank and had instead, kept it as cash, allegedly maintaining a "cash journal" to record all financial transactions. Legenza further claimed that this "cash journal," along with all other financial records related to Del Rosario's money, was lost by the moving company during his relocation from Las Vegas to Buffalo. ([265] Bankr. Dkt. 67 at 3).

Despite multiple hearings in the Nevada case to compel production of financial documents, Legenza had never informed the court that no such records existed. He only revealed this during the Adversary Proceeding. In defending against Del Rosario's motion for summary judgment in the Adversary Proceeding, Legenza

claimed that the loss of financial records was due to his moving company's negligence, not his, during his relocation from Las Vegas to Buffalo in 2017. ([265] Bankr. Dkt. 67 at 3).

c.) <u>The Bankruptcy Court Grants Summary Judgment.</u>

Given the fact that Legenza lacked all financial documentation from which his financial condition or business records might be ascertained and lacked any justification for these circumstances, the Bankruptcy Court properly granted Del Rosario's motion for summary judgment under 11 U.S.C. § 727(a)(3). ([265] Bankr. Dkt. 67).

d.) <u>The District Court Affirms The Bankruptcy Court.</u>

On November 3, 2022, Legenza filed a Notice of Appeal to the United States District Court for the Western District of New York, appealing the Bankruptcy Court's Decision and Order.

On July 26, 2023, the Honorable John L. Sinatra, Jr., United States District Judge for the Western District of New York, affirmed the Order of the Bankruptcy Court. In rendering its decision, the District Court held that "[t]he undisputed facts show that Legenza failed to keep or preserve records from which his financial condition or business transactions might be ascertained, and that such failure was not justified under the circumstances. Therefore, the Bankruptcy Court properly granted summary judgment under Section 727(a)(3)." ([270] Dkt. 16).

COUNTERSTATEMENT OF ISSUES PRESENTED

(1) Did the Bankruptcy Court correctly grant Del Rosario's motion for summary judgment when it found that Legenza was without justification for failing to produce, maintain and preserve records from which his financial condition or business transactions could be ascertained as required by 11 U.S.C. § 727(a)(3)?

Del Rosario Answers: Yes.

(2) In affirming the Bankruptcy Court, did the District Court properly determine that Legenza was without justification for failing to maintain and preserve any recorded financial information as required by 11 U.S.C. § 727(a)(3)?

Del Rosario Answers: Yes.

JURISDICTIONAL STATEMENT

This Court has appellate jurisdiction pursuant to 28 U.S.C. § 1291 because this is an appeal of a final district court decision.

STANDARD OF REVIEW

The district court's ruling on a motion for summary judgment is reviewed *de novo*. *See D.B. Zwirn Special Opportunities Fund, L.P. v. Squire*, 164 F. App'x 175 (2d Cir. 2006). Summary judgment is appropriate if "there is no genuine material issue of fact and … the movant is entitled to judgment as a matter of law." *Id*. Rule

56(c) of the Federal Rules of Civil Procedure permits summary judgment when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). "A 'genuine' dispute over a material fact only arises if the evidence would allow a reasonable jury to return a verdict for the nonmoving party." *Dister v. Cont'l Grp. Inc.*, 859 F.2d 1108, 1114 (2d Cir. 1988).

While the moving party has the burden of identifying the absence of a genuine issue of material fact, "the mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no genuine issue of material fact." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). The nonmoving party, therefore, "must do more than simply show that there is some metaphysical doubt as to the material facts (citations omitted)." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986)). "Conclusory allegations [by the non-moving party] will not suffice to create a genuine issue." *Delaware & HudsonRy. Co. v. Consol. Rail Corp.*, 902 F.2d 174, 178 (2d Cir. 1990). Instead, the opposing party must produce sufficient evidence to permit a reasonable jury to return a verdict in its favor, identifying "specific facts showing that there is a genuine issue for trial." *Anderson*, 477 U.S. at 248.

SUMMARY OF THE ARGUMENT

The Bankruptcy Court and the District Court both correctly found that Legenza was without justification for failing to produce, maintain, and preserve any records from which his financial condition or business transactions could be ascertained, as required by 11 U.S.C. § 727(a)(3).

The Bankruptcy Court properly held that Legenza's actions did not meet the statutory requirements for record-keeping and transparency. ([265] Bankr. Dkt. 67). The District Court upheld these findings. ("The undisputed facts show that Legenza failed to keep or preserve records from which his financial condition or business transactions might be ascertained, and that such failure was not justified under the circumstances"). ([270] Dkt. 16).

Therefore, both courts rightfully determined that Legenza's failure to provide the necessary financial records was unjustified and warranted granting summary judgment in favor of Del Rosario. Legenza now appeals to this Court, again failing to address the core issues of his non-compliance and the substantive grounds upon which summary judgment was based. Despite this, he urges the Court to overturn both the Bankruptcy Court and the District Court and grant him a trial.

On the contrary, the District Court's ruling should be affirmed.

ARGUMENT

I.) The Bankruptcy Court Correctly Granted Summary Judgment Pursuant To 11 U.S.C. § 727(a)(3).

11 U.S.C. § 727(a)(3) states, "the court shall grant the debtor a discharge unless the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor's financial condition or business transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case."

In rendering its decision, the Bankruptcy Court correctly held, "[f]inancial records are an essential tool for the administration of any bankruptcy case. Without access to such information, a trustee is unable to fulfill the statutory duty to 'investigate the financial affairs of the debtor.' 11 U.S.C. § 704(a)(4). Bank statements and disbursement ledgers enable a trustee to identify potential preferences and fraudulent conveyances. Trustees and creditors need to assess the legitimacy of claims, to confirm the full accounting of assets, and to verify the accuracy of recitations in the debtor's schedules and statement of financial affairs." ([265] Bankr. Dkt. 67 at 3-4).

The Bankruptcy Court accurately recognized that Legenza was aware of the importance of maintaining financial records and bank accounts, something he opted not to do. Despite this knowledge, he decided against depositing any of Del

Rosario's money in the bank, instead allegedly keeping it all inside of his house. This conduct was deemed unjustifiable under § 727(a)(3), and as the Bankruptcy Court determined, Legenza proceeded at his own risk:

> The unintended destruction or loss of documents may at times justify an inability to produce certain financial records, but not in circumstances where a party declined to take reasonable steps to safeguard that information. We do not reject the possibility that for special purposes, a borrower may chose [sic] to retain a small amount of assets in the form of currency. Here, the loan proceeds totaled at least $58,000 and clearly exceeded what one might consider to be petty cash. By failing to keep this amount of money on deposit in a bank, Legenza proceeded at his own risk in relying solely on the use of a cash journal.

([265] Bankr. Dkt. 67 at 5).

The Bankruptcy Court concluded "[f]or the reasons stated herein, the plaintiff's motion for summary judgment with regard to her third cause of action is granted. Accordingly, the debtor will be denied a discharge." ([265] Bankr. Dkt. 67 at 5).

II.) The District Court Properly Affirmed The Bankruptcy Court's Decision That Legenza Was Without Justification For Failing To Maintain And Preserve Any Recorded Financial Information As Required by 11 U.S.C. § 727(a)(3).

The District Court rejected Legenza's appeal, deeming oral argument unnecessary. Throughout the proceedings in the Bankruptcy Court and the District Court, Legenza persistently contended that his failure to produce any financial

records was not his fault and did not warrant the grant of summary judgment. His argument has failed each time, and this court should reject it as well.

In affirming the Bankruptcy Court, the District Court found *In re Bujak*, 86 B.R. 30 (Bankr. W.D.N.Y. 1988), to be persuasive. ([270] Dkt. 16 at 11-12). The Court in *Bujak* said, "[c]omplete disclosure in every case is a condition precedent to the granting of the discharge, and if such disclosure is not possible without the keeping of books or records, then the absence of such amounts to the failure to which the act applies." *In re Bujak,* 86 B.R. at 32. "The purpose of § 727(a)(3) is to give a creditor and the Bankruptcy Court complete and accurate information concerning the status of the debtor's affairs and to test the completeness of the disclosure requisite to a discharge." *In re Bujak,* 86 B.R. at 29.

In affirming the Bankruptcy Court, the District Court also found *In re Erdheim*, 197 B.R. 23 (Bankr. E.D.N.Y. 1996), to be persuasive. ([270] Dkt. 16 at 4) *Erdheim* said, "[i]n order to obtain a discharge under Chapter 7, it is imperative that the Debtor keep adequate books and records from which the Debtor's financial statements and business dealings can be ascertained." *In re Erdheim*, 197 B.R. 23, 29 (Bankr. E.D.N.Y. 1996) (citing *Bujak,* 86 B.R. at 32 (Bankr. W.D.N.Y. 1988).

The District Court's decision to affirm the Bankruptcy Court was also based on *In re Artura*, 165 B.R. 12 (Bankr. E.D.N.Y. 1994). ([270] Dkt. 16 at 12). *Artura* emphasized, "[w]hen one engages in a business venture which results in a debtor

and creditor relationship, society requires that a person act responsibly. Displaying a wanton disregard for a creditor's property rights, and a failure to maintain any business or personal records from which his business affairs can be ascertained is not to be condoned or excused." *In re Artura,* 165 B.R. at 15-16.

In affirming the Bankruptcy Court, the District Court also recognized *In re Shapiro*, 59 B.R. 844 (Bankr. E.D.N.Y. 1986). ([270] Dkt. 16 at 5). *Shapiro* held, "[i]nterested parties are entitled to honest and accurate signposts that clearly indicate the property that the debtor has acquired and disposed of prior to his bankruptcy filing." *In re Shapiro*, 59 B.R. at 848.

In rendering its decision, the Bankruptcy Court considered *In re Halperyn*, 346 B.R. 65 (Bankr. W.D.N.Y. 2006) ([10] Bankr. Dkt. 47). *Halperyn* said, "[i]t is inconceivable to this Court that [the debtor] would not have created or kept or have been able to obtain any documentation to support the disposition of the Mercedes. His failure to have kept or produced any such documentation is a failure that warrants the denial of his discharge under Section 727(a)(3)." *In re Halperyn*, 346 B.R. at 70.

The justification utilized by Legenza, claiming that his movers lost all of his financial records, was decisively dismissed by the Bankruptcy Court and the District Court. Other courts have repeatedly reached the same conclusion. "Ultimately, the Defendant bears the responsibility to insure the preservation of financial documents

during a move. As the Defendant failed to meet his responsibility, his discharge must be denied." *In re Settembre*, 425 B.R. 423, 433 (Bankr. W.D. Ky. 2010).

In affirming the Bankruptcy Court, the District Court recognized *In re Buzzelli*, 246 B.R. 75 (Bankr. W.D. Pa. 2000). ([270] Dkt. 16 at 9 - 10). *Buzzelli* said, "[t]he fact that the debtor has geographically moved on one or several occasions does not, by itself, provide any justification for the loss of recorded information such as the debtor's business records given that a prudent person would take proper precautions to ensure against such loss." *In re Buzzelli*, 246 B.R. 75, 107 (Bankr. W.D. Pa. 2000).

In its thorough analysis, the District Court examined a plethora of applicable legal precedents, including *In re Bujak* and *In re Artura*, which underscored the paramount importance of complete disclosure and the maintenance of accurate records in bankruptcy proceedings. These decisions highlight the fundamental principle that debtors like Legenza must act responsibly and provide transparent insight into their financial affairs. His deliberate conduct fell short of the standards set forth in these cases, as evidenced by his admitted failure to uphold his obligations and maintain proper records, and then, placing the blame on his movers. By applying these principles and considering Legenza's non-compliance, the District Court affirmed the Bankruptcy Court and reached a well-founded conclusion, emphasizing the necessity for debtors to adhere to the same fundamental requirements that the

Bankruptcy Court based its decision on. In light of the District Court's decision and Legenza's failure to meet the standards articulated in these cases, the District Court's decision should be affirmed.

III.) The Bankruptcy Court And District Court Correctly Determined That Legenza's Memories Or Mental Recreations Were Wholly Inadequate.

Legenza argued in the Bankruptcy Court and in the District Court that despite having no records or receipts, he could provide a mental recreation of what he did with all of Del Rosario's money. The District Court noted, "Legenza purports that, although the cash journal is missing, 'the expenses involved in [his] marketing and sales of Wild Aces' are 'reasonably reproducible' based on his 'recollection of [his] activities.' ([270] Dkt. 16 at 7).

The District Court summarily rejected this. ("[B]ut even if that is true, Legenza's mental reconstruction of his transactions is not an adequate substitute for actual records, as a creditor is 'not required to take the debtor's word as to his financial situation.' *In re Shapiro*, 59 B.R. at 848." ([270] Dkt. 16 at 7).

In this context, our courts have consistently ruled that relying solely on memories or mental recreations is wholly inadequate. "Moreover, a vague, indefinite and uncorroborated hodge-podge of financial transactions will not suffice under 11 U.S.C. § 727(a)(5) for an adequate explanation of the loss or deficiency of assets." *In re Delancey*, 58 B.R. 762, 769 (Bankr. S.D.N.Y. 1986).

Legenza continues to argue here, a third time, that he can provide the courts with his memories and mental reconstructions of what he did with the money that Del Rosario gave him -- now nine years ago:

> Since providing this response to the Plaintiff, Mr. Legenza was able to discover and retrieve certain documents that previously were not readily available, and he was able to reconstruct a list of expenses **based upon his recollection of his activities** during the pertinent period of time when he was actively marketing and leasing Wild Aces as a side wager to casinos in Nevada, California, and Ontario, Canada. As he described in his Supporting Affidavit ([12] Dkt 6-10 ¶ 21), his expenses for his trips to California coupled with his trips to Ontario while he was living in Las Vegas, plus the costs of relocating in order to service his customer in Ontario more efficiently were relatively simple to calculate.[2]

Our courts have consistently rejected Legenza's argument. Similarly, the District Court recognized *In re Underhill*, 82 F. 2d 258 (2nd Cir. 1936) in rendering its decision. ([270] Dkt. 16 at 13). *Underhill* said in relevant part, "[r]ecords of substantial completeness and accuracy are required so that they may be checked against the mere oral statement or explanations made by the bankrupt." *In re Underhill*, 82 F. 2d at 260 (2nd Cir. 1936). Del Rosario believes that *Underhill* could not be more applicable to the present case. "The failure [of the debtor] to keep his checking account and stubs of canceled checks shows such neglect as to be

[2] See "Brief for Appellant" at 24.

tantamount to, **an attempt to conceal transactions**." *In Re Underhill*, 82 F.2d. 258, 260 (2d Cir. 1936). [emphasis added].

Moreover, "[w]hen a debtor fails to preserve or keep documentary evidence to explain the debtor's financial condition, the creditors and the court need not be required to guess what actually occurred because such speculations do not serve as an adequate substitute for credible proof." *In re Switzer*, 55 B.R. 991, 997 (Bankr. S.D.N.Y. 1986). (See [270] Dkt. 16 at 10).

Legenza continues to assert that he can rely on his memories and mental reconstructions to account for all the money Del Rosario gave him to develop his gambling business almost ten years ago. However, other courts have consistently ruled that memories and mental recreations are unacceptable substitutes for actual records. Legenza's argument should be rejected, just as the Bankruptcy Court, the District Court, and courts across the country have already done.

IV.) Legenza's Sole Case For Reversal Fails.

After the Bankruptcy Court and the District Court correctly applied the relevant law, Legenza now appeals to this Court to reverse these rulings and grant him a trial, citing a Connecticut bankruptcy case. ("The court should have applied the standards outlined in *In re Brenes*, 26 BR 322, 329 (Bankr Ct. D Conn [2001]".)[3] However, the District Court extensively referenced the *Brenes* case in its detailed

[3] See "Brief for Appellant" at 29-30.

and well-articulated footnote number 2 of the Decision and Order, ultimately rejecting *Brenes*. ([270] Dkt. 16 at 6).

> The Court rejects Legenza's argument that the Bankruptcy Court should have applied the standards set forth in *In re Brenes*, 261 BR 322, 329 (Bankr. D. Conn. 2001) to assess justification. See [145] Dkt. 9 at 13-17; [213] Dkt. 13 at 14. The test in *Brenes* is derived from *In re Sethi*, 250 B.R. 831, 838 (Bankr. E.D.N.Y. 2000), which articulated factors relating to the first prong of the test-i.e. "whether the records produced by the debtor are sufficient." *In re Sethi*, 250 B.R. at 838. Indeed, the Second Circuit recognizes that "some courts seem to mix up the creditor's proof of whether the debtor failed to keep records with the debtor's proof of justification." *In re Cacioli*, 463 F.3d at 236 (internal citation omitted). This is "problematic because different parties have the burden of proof on the statutory elements of lack of records and of justification." *Id*. As such, this Court declines to apply that test to assess justification.

The District Court correctly recognized that the test in *Brenes* is derived from *In re Sethi*, and that applying it would conflate the burdens of proof for the creditor's and debtor's obligations regarding record-keeping and justification. Therefore, *Brenes* does not apply and should not be used as authority to reverse the District Court's decision, which has already thoroughly considered and rejected *Brenes*. The District Court's ruling should be affirmed.

In accordance with long-standing legal precedent, both the Bankruptcy Court and the District Court properly concluded that Legenza unjustifiably failed to maintain or preserve any documented information that could elucidate his financial

status or business dealings. Moreover, both courts rightly recognized the inadequacy or implausibility of Legenza relying on his memory or mental recollections at a trial.

He has done no better on this appeal.

CONCLUSION

For the foregoing reasons, Appellee respectfully requests that the Court affirm the district court's order and grant such other relief as it deems just and proper.

Dated this March 10, 2025
New York, NY

Respectfully submitted,

CRISCIONE RAVALA, LLP

By: /s/ M. Salman Ravala
M. Salman Ravala, Esq.
Attorneys for Appellee
250 Park Ave. – 7th Floor
New York, NY 10177
Tel: (212) 920-7142
Fax: (800) 583-1780
E: SRavala@lawcrt.com

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitations of Second Circuit Local Rule 32.1 because it contains 4,273 words, as determined by the word-count function of Microsoft Word, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because the brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Dated this March 10, 2025
New York, NY

Respectfully submitted,

CRISCIONE RAVALA, LLP

By: /s/ M. Salman Ravala
M. Salman Ravala, Esq.
Attorneys for Appellee
250 Park Ave. – 7th Floor
New York, NY 10177
Tel: (212) 920-7142
Fax: (800) 583-1780
E: SRavala@lawcrt.com