

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION**

AMERICAN PHILOSOPHICAL
ASSOCIATION, et al.,

Plaintiffs,

v.

DISTRICT OF COLUMBIA,

Defendant.

Civil Case No. 2019 CVT 000003
Judge Kimberly S. Knowles

Next Date: Undetermined

PLAINTIFFS' POST-HEARINGS SUBMISSION

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Pursuant to the Scheduling Order entered by this Court on October 6, 2025, Plaintiffs hereby submit this post-hearings memorandum in support of: (1) approval by this Court of certain Claims still disputed by the District; (2) the imposition of pre-judgment interest on the amount of tax refund to which each approved Claimant would be entitled; (3) the authority of this Court to retain jurisdiction over this case following the entry of judgment to provide Class members with the opportunity to obtain tax refunds so long as the District continues to enforce its unconstitutional “local” requirement for issuing sales tax exemptions; and (4) providing in the judgment the District’s obligation to pay the costs of issuing notice to potential Class members earlier this year.

ARGUMENT

I. The District’s Unexpired Tax Exemption Objections Should All Be Denied

The District’s objection that 15 Claimants could have and should have used District Tax Exemptions, which they obtained while located in the District, after they moved their offices from the District, is a specious contention that should be denied for a number of reasons.¹

¹ These Claimants are the Class Representative, American Anthropological Association (DCT 174); Congressional Fire Services (DCT 187) (but only as to its 4/28/2024 event); Shakespeare Association of America (DCT 1010) (but only as to its 4/17/2019 event); College and University Professional Association for Human Resources (DCT 1054) (but only as to its 3/3/2019 event); International Society for Technology in Education (DCT 1067) (but only as to its 3/23-24/2023 event); National Association of Corporate Directors (DCT 1116) (but only as to its 9/19/2019 event); American Bankruptcy Institute (DCT 1116) (but only as to its 4/19/2017, 4/19/2018, and 4/1/2019 events); American Epilepsy Society (DCT 1121) (but only as to its 12/1/2017 event); Cherry Blossom, Inc. (DCT 1136); American Thyroid Association Inc. (DCT 1138) (but only as to its 1/3/2018 event); Concerned Women for America (DCT 1142) (but only as to its 9/1/2019, 9/1/2022, 9/5/2022, and 9/8/2022 events); The Women’s Zionist Organization of America, Inc. (DCT 1160) (but only as to its 5/15/2018 event); Marine Corps Scholarship Foundation (DCT 1162); The Nature Conservancy (DCT 1172) (but only as to its 6/18/2016, 6/14/2017, 5/1/2018, and 6/8/2019 events); and National School Boards Association, Inc. (DCT 1202) (but only as to its 1/25/2017, 1/31/2018, and 1/23/2019 events).

First, as Your Honor aptly noted during oral argument on this issue on September 3, 2025:

[I]t seems shady. It just seems shady that if you do the right thing and you're like, okay, well, I moved out of D.C. I have this tax exempt status. I'm going to have this meeting in D.C., but I still have the tax exempt status. Even though I'm located in Virginia, we're going to use the tax exempt status. That seems, to put in legal terms, shady.

Sept. 3, 2025 Hr'g Tr. 52:3-10. But it is actually worse than shady; it is a fabrication by the District in this case that is devoid of any evidentiary support. Indeed, the only evidence in the record, which was provided by Denise Cappuccio of Concerned Women for America (DCT 1142), is directly contrary to the District's assertion that these unexpired exemptions could have been used. As Mrs. Cappuccio testified:

Q Okay. Okay. Did Concerned Women for America use the tax exemption that it obtained for the District, while it was in the District, for any of the meetings included in the claim form?

A No, we did not use the sales tax exemption for these meetings.

Q Okay. Why not?

A. Because at the -- after we moved to Virginia, I actually called -- you know, wanted to make sure I was following the rules, so I called in the summer of 2019, called the D.C. Office of Tax and Revenue to inquire about the rules, even though the certificate was still, you know, not -- had not expired yet I wanted to know, well, we don't have the office there anymore; are we allowed to use it? And then I was told no because we did not have a physical location. And therefore, I did not use it because I wanted to obey the law.

Oct. 1, 2025 Hr'g Tr. 93:16-94:7. Mrs. Cappuccio called again one year later and was told by an Office of Tax and Revenue ("OTR") representative the same thing:

Q Okay. After that conversation, did you have another call with the D.C. Office of Tax Revenue on the issue of use of the tax exemption?

A Yes. Actually, I went back through my notes, and I had notes that I called again in March of 2020. I spoke with somebody; her name was Priscilla Wicker (phonetic). That's how I documented the name. And just, you know, I

wanted to verify that this was the case because we have a -- you know, as you could see, there were several events that we had coming up. And I just wanted to make sure that the first person gave me the correct -- you know, stated correctly that we can no longer use it.

It was confirmed so that -- you know, I just wanted to make sure that that person had, you know, the right rules that she was providing to me. And then, it was confirmed, so then that, you know, satisfied me. Then, I was like, okay, we're not allowed to use it. So we continued to not use it all along.

Id. at 95:3-21.²

These statements made by OTR employees on two occasions to Mrs. Cappuccio are admissions by the District pursuant to Federal Rule of Evidence 801(d)(2)(D) that totally belie

² Mrs. Cappuccio noted that Ms. Wicker's current position with the District is a tax auditor at the District Office of the Chief Financial Officer. *See* Oct. 1, 2025 Hr'g Tr. 95:22-96:1. According to the District's current list of employees, Ms. Wicker has held that position since June 2012. *See* "DC Government Employee Listing," https://dchr.dc.gov/sites/default/files/dc/sites/dchr/publication/attachments/public_body_employee_information_211231.pdf (PDF p. 58 at line 25) (last visited Oct. 15, 2025).

The OTR is part of the Office of the Chief Financial Officer, and the OTR states on its own website that the OTR leadership team is headed by the Deputy Chief Financial Officer. *See* <https://otr.cfo.dc.gov/biography/otr-leadership-team>. Moreover, the District states on its own website that the responsibilities of the Office of the Chief Financial Officer include "Administering and enforcing the District's tax laws." *See* <https://cfo.dc.gov/page/about-ocfo>. This Court can take judicial notice of these portions of the District and OTR websites. *See Employee #1 v. Department of Behavior Health*, 2024 WL 4345798, at *4 n.3 (D.D.C. Sept. 29, 2024) ("[T]he Court will take judicial notice of this fact because the accuracy of the information on the District's official website 'cannot reasonably be questioned.'" (quoting Fed. R. Evid. 201(b)(2)), *aff'd in part, vacated in part on other grounds, and remanded sub nom. Employee #1 v. Bazron*, 2025 WL 2814760 (D.C. Cir. Oct. 3, 2025) (per curiam); *Baker v. Islamic Republic of Iran*, 2025 WL 2480075, at *4 (D.D.C. Aug. 28, 2025) ("Under Federal Rule of Evidence 201(b), judicial notice is appropriately taken of information on official public government websites."), *appeal pending*, No. 25-7144 (D.C. Cir.). The content of official government websites is also self-authenticating pursuant to Federal Rule of Evidence 902(5) and qualifies as admissions of a party pursuant to Rule 801(d)(2)(A) and/or a public record pursuant to Rule 803(8). *See Riverkeeper v. Taylor Energy Co.*, 113 F. Supp. 3d 870, 881 n.52 (E.D. La. 2015) ("Courts around the country have held that printouts from government websites satisfy Rule 803(8)—the public records exception to the hearsay rule.") (citing cases); *Johnson v. Cate*, 2015 WL 5321784, at *10 (E.D. Cal. Sept. 10, 2015) ("When combined with the public records exception to the hearsay rule, Rule 803(8), these official publications posted on government agency websites should be admitted into evidence easily."). They are therefore admissible against the District.

the District's position that such tax exemptions could have been used. *See* Sept. 3, 2025 Hr'g Tr. 42:23-43:6. They qualify as admissions because these statements were made by representatives of the OTR (which is an office of the District)³ within the scope of their employment.

Federal Rule of Evidence 801(d)(2) has been adopted by the District of Columbia Court of Appeals. *See Harris v. United States*, 834 A.2d 106, 115-16 (D.C. 2003) ("We have adopted the substance of Federal Rule of Evidence 801(d)(2) on 'admission by party-opponent,' and deem such statements to be admissible into evidence."). In that regard, the Advisory Committee Notes to this Federal Rule are instructive:

No guarantee of trustworthiness is required in the case of an admission.

(A) A party's own statement is the classic example of an admission. If he has a representative capacity and the statement is offered against him in that capacity, no inquiry whether he was acting in the representative capacity in making the statement is required; the statement need only be relevant to represent affairs.

Fed. R. Evid. 801(d)(2) advisory committee's note; *see Harris*, 834 A.2d at 116 (referring to the federal Advisory Committee Notes and stating that "[o]ne rationale for this 'generous treatment' of party admissions . . . is a party's ability to rebut the out-of-court statement by 'putting himself on the stand and explaining his former assertion'") (citations omitted; cleaned up). Here, the District had a full opportunity to provide testimony rebutting the admissions described by Mrs. Cappuccio, but it declined to do so.

Rule 801(d)(2)(D) requires neither adoption nor ratification. *See English v. District of Columbia*, 651 F.3d 1, 7 (D.C. Cir. 2011). The scope-of-employment requirement under Rule

³ The entire District government is opposing these claims. *See United States v. American Tel. & Tel. Co.*, 498 F. Supp. 353, 357-58 (D.D.C. 1980) (concluding, for purposes of Rule 801(d)(2), that the plaintiff is the United States and that "all Executive Branch agencies, departments and subdivisions comprise the plaintiff in this case").

801(d)(2) allows statements to be admitted even without explicit authorization, so long as the declarant was acting within the scope of their employment when the statement was made. *See 2 McCormick on Evidence* § 259 (9th ed. 2025) (“When a party to the suit has expressly authorized another person to speak, it is an obvious and accepted extension of the admission rule to admit against the party the statements of such persons.”). Applying these standards, these statements made by OTR officials to Mrs. Cappuccio clearly qualify as admissions by the District pursuant to Rule 801(d)(2)(D).

There can be no doubt that these statements were made by OTR employees while acting within the scope of their employment. This is so because the OTR itself invites people with exempt organization questions to call. *See* OTR, “Exempt Organizations Frequently Asked Questions (FAQs)” (“For questions and assistance, exempt organizations may contact OTR’s e-Service Unit at e-services.otr.dc.gov.”) (emphasis added), <https://otr.cfo.dc.gov/page/exempt-organizations-frequently-asked-questions-faqs> (last visited Oct. 13, 2025).⁴ Unquestionably, the employees who the OTR has respond to such telephone inquiries are acting within the scope of their employment. Any contention by the District that it is not within the scope of the employment of the OTR employees it has chosen to respond to exempt organization questions raised by phone callers is therefore just nonsense. That Mrs. Cappuccio did not record the name of the person from the OTR who first told her in March 2020 that her organization could no longer use the Tax Exemption Certificate that Concerned Women for America obtained while located in the District after they moved from the District to Virginia is therefore irrelevant for purposes of the statement constituting an admission. But, lest there be any doubt as to the fact OTR employees who respond to “exempt organization” telephone calls are doing so within the

⁴ This Court can take judicial notice of this OTR FAQ page for the reasons set forth in footnote 2, *supra*.

scope of their employment, the second OTR employee with whom Mrs. Cappuccio spoke when she called again in 2020 was, as shown above, a senior employee of the District's Office of the Chief Financial Officer, which office is responsible for "[a]dministering and enforcing the District's tax laws." It is also significant that neither OTR employee with whom Mrs. Cappuccio spoke declined to answer her question.⁵ The statements made to Mrs. Cappuccio therefore qualify as admissions.

As admissions, they are affirmative evidence of the truth of the OTR statements made to Mrs. Cappuccio. *See Chaabi v. United States*, 544 A.2d 1247, 1248 (D.C. 1988) ("[T]he statement was also an admission of a party opponent, and thus admissible not only to impeach, but also as affirmative evidence of the truth of the statement.").

This admission is also applicable to the Claims of each Claimant against which the District has asserted its unexpired tax exemption objections, as the District is adversarial to each Claimant. Rule 801(d)(2)(D) requires only two elements: (1) the statement was made by the party's agent or employee on a matter within the scope of that relationship, and (2) the statement is offered against that party. There is no requirement that the statement be made directly to the party seeking to introduce it. The Advisory Committee Notes to Rule 801(d)(2) also make clear that the rule encompasses even statements made to third persons, which statements obviously would not even be made to a party to the suit. District courts are in accord. *See Chaabi*, 544 A.2d at 1248 (statement by defendant to his girlfriend was an admission by defendant and therefore affirmative evidence that could be used by the government to prove that defendant

⁵ The District's suggestion that Mrs. Cappuccio should have sought a private letter ruling from the OTR or should have taken affirmative steps to cancel it is absurd. As Mrs. Cappuccio testified, no one from the OTR told her she needed to take any such steps, and, based on the advice she got twice, her organization determined not to use it. *See* Oct. 1, 2025 Hr'g Tr. 99:15-101:7. And there is nothing about potentially needing to obtain a private letter ruling on the OTR's FAQ page for tax exemptions that is cited above.

acted for reasons other than self-defense); *Ward v. United States*, 55 A.3d 840, 850 (D.C. 2012) (statement made by defendant Ward to the person with whom he was incarcerated in jail (Evans) qualified as an admission the government could use against defendant); *American Tel. & Tel.*, 498 F. Supp. at 356, 358 (concluding that statements made by officials of Executive Branch agencies of the U.S. government at proceedings before the Federal Communications Commission were Rule 801(d)(2) admissions by the United States). The District's admissions to Mrs. Cappuccio are, therefore, dispositive of the District's objection on this ground as to all 15 Claimants listed in footnote 1, *supra*.

Second, these OTR admissions are also consistent with the language of D.C. Code § 47-2005(3), which is to afford an organization the ability to avoid paying taxes to the District only if they have an office in the District. They are also consistent with the District's own position as to the intent of conditioning a District tax exemption on having an office in the District, which was to avoid losing tax revenues. *See* Plaintiffs' Memorandum in Support of Their Motion for Summary Judgment at 12 (Apr. 9, 2022); Defendant's Combined Opposition to Plaintiffs' Motion for Summary Judgment as to Defendant's Liability and Cross-Motion for Summary Judgment at 8 (Mar. 27, 2023) ("[T]he Committee Report for the District of Columbia Tax Enforcement Act of 1982 (which enacted the location requirement) makes clear the District's intention was to prevent a revenue loss to the District of over \$10 million annually if the substantial number of out-of-state semipublic institutions that hold meetings and conferences in the District were able to do so on a tax-free basis."). The language and undisputed intent of Section 47-2005(3) render the District's position in this action, which is directly contrary to this language and intent, simply unbelievable.⁶

⁶ Also unbelievable is the District's position, in effect, that it is acceptable for non-resident semipublic institutions and hotels to flout the law as long as the OTR does not know about it,

Third, the Class definition does not preclude any Class member from recovering the taxes they were required to pay because they had an unexpired tax exemption. So long as they qualify as a semipublic institution, do not have an office in the District, and paid taxes in connection with an event at certain District hotels, they qualify for a tax refund. The District attempts to avoid this logical conclusion by arguing that, because an unexpired tax exemption could have been used by a Claimant, they elected not to use it and therefore the Claimant has not been discriminated against by the unconstitutional law at issue. *See* Sept. 3, 2025 Hr’g Tr. 43:7-16. The District’s argument is fundamentally flawed for two reasons: (1) as shown above, it could not have been used; and (2) there is no evidence any of these Claimants elected not to use a tax exemption certificate that they thought they could use.

Fourth, the District has waived this position by not raising it: (1) in support of its motion to dismiss; (2) in opposition to Plaintiffs’ motion for class certification (as they are now asserting this objection against Plaintiff and Class Representative American Anthropological Association, and they could have challenged its adequacy and/or typicality on these bases); (3) in opposition to Plaintiffs’ motion for summary judgment; or (4) in support of its motion to decertify the Class. Having failed to raise it on any of these many occasions, the District has waived this contention.

The District has argued that it did not even know about this issue until Claims began to be submitted, *see* Sept. 3, 2025 Hr’g Tr. 47:8-13, but this is also false, as the District raised its unexpired tax exemption point with regard to Plaintiff AAA informally well before filing its opposition to Plaintiffs’ motion for summary judgment and long before it filed its motion to decertify the Class, so it could have raised this very issue in connection with both motions. The District’s contention that this issue has nothing to do with summary judgment, *see id.* at 47:2-5,

based on the District’s observation that the exemption certificates would be submitted to the hotels and not to the OTR, *see* Sept. 3, 2025 Hr’g Tr. 50:22-51:17.

is also untrue, as an argument that Plaintiff AAA was not discriminated against would, if valid, clearly have been germane to whether it was entitled to summary judgment as to liability. The District also contends its objection raises a standing issue and therefore it cannot be waived, *see id.* at 55:16-56:1, but it does not raise a standing issue and also does not raise any issues with this Court's subject-matter jurisdiction. Therefore, this objection can be waived. In reality, it is at best a contention that Claimants' damages were not caused by the unconstitutional provision of the D.C. Code at issue. *See Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 133-34 (2014) (proximate causation is an element of the statutory cause of action, not a constitutional standing requirement, and therefore can be waived if not properly raised by defendants).

Lastly, the District has conceded that this is a problem of the District's own making in that it provides tax exemption certificates with no expiration or with long expiration dates. *See* Sept. 3, 2025 Hr'g Tr. 52:22-53:7. And, that it writes to certificate holders near the expiration of their certificates hardly is an effective method for addressing organizations that have moved from the District years or decades earlier. *See id.* at 49:8-21. The District could have done long ago what Your Honor observed during oral argument: "Why wouldn't you have something that says, if you move out of the District of Columbia, you need to notify us so that you no longer have the status?" *Id.* at 51:20-22. Or put on the certificates themselves, as the Court also suggested, a statement that says, in effect, as long as you are residing in the District of Columbia, you are eligible to use this tax exempt status. *See id.* at 57:1-9. The District has done neither. Additionally, regardless of how the OTR has set up its tax exemption expiration system, that system and the expiration dates it sets cannot define what is lawful. *See id.* at 48:13-15 ("this is just a function of how the tax certificate system works"). The District therefore should not be allowed to take advantage of an issue it is solely responsible for creating.

II. The District's Remaining "DC Office" Objections Are Meritless

The District's only remaining "DC Office" objections are to the Claims of Cherry Blossom, Inc. (DCT 1136) and the John Carroll Society (DCT 1195). Neither has any merit.

A. *Cherry Blossom (DCT 1136)*

With regard to Cherry Blossom, Inc., Robert Wolfe testified that Cherry Blossom, Inc. has never had an office in the District and, since the inception of the organization, has been located only in Bethesda, Maryland. *See* Sept. 3, 2025 Hr'g Tr. 98:13-15, 99:3-12.

The District does not dispute this fact, so that should be the end of its DC Office objection to this Claimant. In an attempt to get around this uncontested fact, the District, instead, is attempting to impute the address the OTR itself indicated on the November 2022 tax exemption certificate it issued to Cherry Blossom—an address that Cherry Blossom did not even know was on its tax exemption certificate until recently, which was well after all of its claimed meetings.⁷ This is confirmed by Mr. Wolfe's testimony that he "wasn't familiar with [the 174 Pennsylvania Avenue address] until you [Plaintiffs' counsel] mentioned it to me a little while ago," *id.* at 98:16-19, and that address is that of Cherry Blossom's former lawyers, *id.* at 98:20-23. In addition to not even knowing its former lawyers' address was indicated on Cherry Blossom's tax exemption certificate, there are further grounds as to why its lawyers' address that the OTR put on Cherry Blossom's tax exemption certificate cannot be imputed to Cherry Blossom.

Specifically, it also cannot be imputed because there is no evidence that Cherry Blossom's former lawyers even indicated their own address as Cherry Blossom's address in their

⁷ One of the documents pertaining to Cherry Blossom that the District included in its Exhibit J refers to a sales and use tax exemption issued in April 1990 (*see* Ex. J at 96), but that letter is addressed to Cherry Blossom at its Bethesda address and the District did not produce the tax exemption, so the District has failed to show that there is even an in-District address on that exemption certificate.

application in 2022 for a tax exemption on Cherry Blossom’s behalf or that they even applied for a sales tax exemption. These are key facts, which would have been contained in the application materials submitted to the OTR by Cherry Blossom’s former lawyers. The District could have produced, but failed to produce, any such application materials.

Such an application necessarily would have had to have been on a Form FR-164 (Application for Exemption), attached as Exhibit A hereto, of which this Court can take judicial notice and which is also admissible for the reasons set forth in footnote 2, *supra*. The District’s failure to produce it is significant because this Application for Exemption form is the same form issued by the OTR for applying for an income and franchise tax exemption, which does not require an office in the District, and a sales tax exemption, which does. The type of exemption sought should be indicated at the top of the form.

Mr. Wolfe testified that the purpose of obtaining a tax exemption was so that Cherry Blossom could accept tax deductible donations from persons in the District, which he knew had nothing to do with having an office in the District. *See* Sept. 3, 2025 Hr’g Tr. 101:19-25. Mr. Wolfe’s testimony is absolutely correct as the OTR sets forth the requirements on its website for a non-resident not-for-profit entity to be able to accept donations in the District, which are to:

- (1) “obtain a Certificate of Authority” by filing “a Foreign Registration Statement (Form FN-1)”;
- (2) “file Form FR-500, Combined Business Tax Registration Application”; and (3) “*apply for an exemption from local franchise and property taxes from*” the OTR by “*fil[ing]* . . . Form FR-164, *Application for Exemption.*” NPSS Corp., “Nonprofit Fundraising Registration: District of Columbia Charitable Registration Requirements” (emphasis added), <https://nonprofitsupportservices.net/district-of-columbia-fundraising-registration/> (last visited

Oct. 13, 2025), which OTR webpage is also admissible.⁸ Accordingly, the OTR should not have issued a sales tax exemption at all to Cherry Blossom, but instead a franchise and income tax exemption, or it should have at least questioned which exemption to issue as the OTR was unquestionably aware of Cherry Blossom's Bethesda, Maryland address because the form also requires (in section 10c) the location of any "regular places of business outside the District," which information was assuredly provided on the application. Indeed, the OTR clearly knew Cherry Blossom's principal address was in Bethesda, Maryland, as virtually every letter it sent to Cherry Blossom (included by the District in its Exhibit J to its August 8 Submission at pages 82-96 of the PDF) is addressed to Cherry Blossom at 4963 Elm St Ste 106, Bethesda, MD 20814-7907. Furthermore, the OTR may have indicated the address of Cherry Blossom's former lawyers only because those lawyers were Cherry Blossom's registered agent in the District. Further, if Cherry Blossom's then-lawyers also submitted with the FR-164 Application Cherry Blossom's Foreign Registration Statement (Form FN-1) and its Combined Business Tax Registration Application (Form FR-500), the OTR unquestionably would have known that Cherry Blossom was not a District resident.

Having failed to put in evidence or even produce Cherry Blossom's then-lawyers' application materials, and given the real possibility that the OTR improperly issued a sales tax exemption instead of an income and franchise tax exemption to Cherry Blossom, there is no basis for attributing to Cherry Blossom the OTR's own determination to include Cherry Blossom's then-lawyers' address on the tax exemption.⁹

⁸ While the OTR webpage refers to an exemption from local franchise and property taxes, the referenced Form refers to an exemption from franchise and income taxes, and donations would be considered income to Cherry Blossom without this exemption.

⁹ Despite Cherry Blossom's efforts, it has not been able to obtain the application materials its former lawyers submitted to the OTR.

B. *John Carroll Society (DCT 1195)*

The District's DC Office objection to the Claim of the John Carroll Society is yet another attempt to improperly impute to the Claimant a District address of another entity. This second attempt at imputation should also be rejected.

The District does not dispute that the John Carroll Society is located in Glen Echo, Maryland and that it never has had an office in the District. Rather, it is seeking to impute the District location of the United States Conference of Catholic Bishops ("USCCB"). This attempt at imputation is baseless for three reasons.

First, the John Carroll Society is a wholly separate organization from the USCCB. It operates in a totally different location and has its own federal tax identification number. *See* Ex. AJ (received into evidence at the September 3, 2025 hearing (Tr. 39:23-40:2)).

Second, D.C. Code § 47-2005(3) contains no provision for imputing the District location of another entity to determine whether a semipublic institution is entitled to a tax exemption. This is a black-and-white issue—either the semipublic institution has a location in the District or it does not. Here, there is no dispute that it does not.

Third, the only relationship between the John Carroll Society and the USCCB is that the John Carroll Society obtained its § 501(c)(3) tax exemption by virtue of a group exemption obtained by the USCCB, which group exemption was received into evidence as Exhibit F during the September 3, 2025 hearing (Tr. 38:1-13), and which group exemption applies to tens of thousands of institutions listed in the Official Catholic Directory of which the John Carroll Society is one. That is the relationship on which the District bases its objection to this Claimant. The mere fact that the John Carroll Society's tax status is derivative of that of the exemption obtained by the USCCB does not, as the District contends, have anything to do with whether the John Carroll Society can be considered to be located in the District for purposes of Section 47-

2005(3). Indeed, under the District’s logic, the OTR would have already given tax exemptions to many of the tens of thousands of catholic organizations listed in the Official Catholic Directory. The District has provided no evidence that it has done so or intends to do so. The District’s objection to the John Carroll Society’s Claim is therefore baseless and should be denied.

III. The District’s “Other Meeting” Objections

The District has withdrawn its “Other Meeting” objections to the organizations that testified on October 1 and 2, 2025, specifically Defiance College (DCT 165), Hope College (DCT 1154), and the Homework and Hangout Club (DCT 1058). While these are the only Claimants subject to the District’s “Other Meeting” objections that agreed to testify, there remains one Claimant subject to this objection, but only in part: Wingate University (DCT 158). The District did not object to Wingate University’s March 11, 2018 trip, so the tax it paid for this trip should therefore be refunded.

IV. Approved Claimants Are Entitled to Pre-Judgment Interest on the Amount of Approved Taxes They Paid

D.C. Code § 47-3310 provides in pertinent part:

(b) In any proceeding under this title the Superior Court has jurisdiction to determine whether there has been any overpayment of tax and to order that any overpayment be credited or refunded to the taxpayer, if a timely refund claim has been filed.

(c) Any other provision of law to the contrary notwithstanding, if it is determined by the Mayor or by the Superior Court that there has been an overpayment of any tax, whether as a deficiency or otherwise, interest shall be allowed and paid on the overpayment at the rate of 6% per annum from the date the overpayment was paid until the date of refund

Section 47-3310(c), however, also provides an exception for when interest begins to run:

(1) Interest shall be allowed and paid only from the date of filing a claim for refund or a petition to the Superior Court, as the case may be, on that part of any overpayment that was not assessed and then paid as a deficiency or as additional tax[.]

The District asserts that this subsection (c)(1) applies here and that interest should therefore only run from the date a Claimant submitted its Claim in this case, but the reference to “filing a claim” in this subsection cannot possibly refer to the submission of Proof of Claims in this case pursuant to Superior Court Rule 23, and which were not “filed” anywhere. Indeed, this Court’s approved form of Notice, to which the District agreed, referred only to the “submission” of Proof of Claim forms and required that they be “submitted” to the Claims Administrator—RG/2. Order at 2 (Mar. 12, 2025). Moreover, as Your Honor is well aware, three different Superior Court judges, including Your Honor, have rejected the District’s position that this Court would have jurisdiction only if a timely refund claim has been “filed” with the District and then denied. *See* Order at 3 (Feb. 19, 2025) (the motion to dismiss “argues that this Court only has jurisdiction ‘if a timely refund claim has been filed’”).

The subsection also unquestionably recognizes the possibility that no such claim may have been “filed” by the use of the language “as the case may be.” As a result, pursuant to the plain language of subsection (c)(1), interest must run from the filing of the petition in this Court, which was June 12, 2017. However, for taxes paid by approved Claimants after June 12, 2017, Plaintiffs are willing to agree that interest on tax refunds on such taxes run from when they were paid. Additionally, the judgment must provide for post-judgment interest, which is 4% per annum, until the District pays the amount of the judgment. *See* D.C. Code § 28-3302(b).

V. Due to the District’s Refusal To Amend Section 47-2005(3) To Drop the Unconstitutional “Local” Requirement, this Court Can and Should Retain Jurisdiction over this Case Following the Entry of the Soon To Be Entered Judgment

As discussed at the October 1, 2025 hearing, the District’s continual enforcement of a law found by this Court to violate the Commerce Clause of the United States Constitution requires the District to provide a process for Class members to obtain tax refunds for additional events

since the June 6, 2025 Claims Deadline. This Court may do so by means of its inherent power to protect and enforce its judgment that Section 47-2005(3) is unconstitutional. *See Central of Georgia R.R. Co. v. United States*, 410 F. Supp. 354, 357 (D.D.C.) (three-judge panel) (“Supreme Court authority leaves no doubt that federal courts have continuing jurisdiction to protect and enforce their judgments.”), *aff’d mem. sub nom. ICC v. Central of Georgia R.R. Co.*, 429 U.S. 968 (1976); *United States v. American Radio Sys. Corp.*, 1997 WL 599502, at *8 (D.D.C. July 25, 1997) (final judgment of the court including the following reservation of jurisdiction: “Jurisdiction is retained by this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation or modification of any provisions of this Final Judgment, for the enforcement of compliance herewith, and for the punishment of any violation hereof.”); *Biscayne Tr. Co. v. American Sec. & Tr. Co.*, 20 F.2d 267, 268 (D.C. Cir. 1927) (“It is also a general rule that a court of equity, which has obtained jurisdiction of a controversy for any purpose, will retain such jurisdiction for the purpose of administering complete relief, particularly with respect to the enforcement of its own decree.”). Furthermore, in the context of class action settlement, courts routinely retain jurisdiction with regard to the enforcement of the settlement and its administration. *See, e.g., Page v. Pension Benefit Guar. Corp.*, 213 F. Supp. 3d 200, 206 (D.D.C. 2016) (“In approving a class-action settlement, a federal court may retain jurisdiction over the implementation of the parties’ agreement and incorporate its terms into a judicial order.”), *aff’d sub nom. Collins v. Pension Benefit Guar. Corp.*, 881 F.3d 69 (D.C. Cir. 2018); *In re Orthopedic Bone Screw Prods. Liab. Litig.*, 176 F.R.D. 158, 182-83 (E.D. Pa. 1997) (“retain[ing] jurisdiction over the parties to the settlement agreement as a court of equity” in order “to ensure, within the reach of its powers, that any class members . . . are not improperly deprived of benefits that they reasonably expect to

receive”). Reserving jurisdiction avoids the necessity of filing a new action and taxing an already-burdened judicial system with a repeat of motions already decided in this case.

The District maintained at the October 1, 2025 hearing that allowing further notice and claim periods would be inconsistent with the end of the Class Period, which, according to the District, has already ended because it ends when “there is a final determination that the requirement under D.C. Code § 47-2005(3)(C) that a semipublic institution must reside in the District in order to obtain an exemption from sales and hotel taxes violates the Commerce Clause of the United States Constitution.” Order at 3 (Mar. 12, 2025). This is not true, as there will be no final judgment until judgment is entered by this Court covering both liability and damages. Indeed, the District’s contention that a final order has already been issued is belied by the position it took in moving, on April 4, 2024, to alter the judgment erroneously entered. In that submission, the District argued that the judgment closing the case was improperly entered because, among other things, the order that held Section 47-2005(3) unconstitutional “did not state that it was a final judgment or that the case was closed.” District’s Motion To Alter or Amend the Judgment and for a Status Conference at 1 (Apr. 4, 2024).

Accordingly, with the present end of the Class Period, an additional claims process could occur early next year and cover the period from June 7, 2025 until a final judgment is entered by this Court later this year (which judgement could concern only claims made for meetings or events during the period from December 12, 2016 through June 6, 2025). Depending on when this Court enters judgment against the District, the Association for Jewish Studies’ (DCT 1089) claim for its upcoming meeting in early December of this year may be able to be addressed in connection with that claim period. If not, this Court could issue a supplemental judgment concerning that part of the Association for Jewish Studies’ Claim.

The present end of the Class Period, however, should not immunize the District from having to continue to provide tax refunds to Class members so long as the District continues to unconstitutionally require them to pay taxes when they attend events in the District. Indeed, the present ending date of the Class Period was chosen because Plaintiffs presumed that, upon finality, the District would not continue to enforce this unconstitutional “local” office requirement.

Accordingly, this Court should retain jurisdiction, including the ability to entertain a motion to modify the end of the Class Period to be the date on which: (1) the District ceases enforcing the “local” office requirement in Section 47-2005(3), or (2) Section 47-2005(3) is amended by the District to eliminate its “local” office requirement for issuing sales tax exemptions, and continue to have periodic claim periods until either (1) or (2). This Court should therefore include in the judgment to be entered the following language:

To protect and enforce this Court’s determination that D.C. Code § 47-2005(3) is unconstitutional, and without affecting the finality of this Judgment, this Court hereby retains jurisdiction to: (1) conduct additional notice and claim procedures to allow Class members to submit periodically claims for events held during the period June 7, 2025 to such time as the District ceases conditioning the issuance of tax exemptions to semipublic institutions on the requirement that they have an office in the District; and (2) consider modifications to the Class definition as necessary to facilitate the submission of such claims.

VI. Plaintiffs’ Pending Motion To Require the District To Pay the Costs of Providing Notice to the Class Earlier this Year Should Be Granted, Which Costs Should Be Included in the Judgment

Plaintiffs stand on their briefs on this issue that were filed on April 16, 2024 and December 27, 2024, and the oral argument Your Honor held on February 3, 2025, but hereby add the following two points:

First, the Comment to Superior Court Rule 23 specifically authorizes this Court to impose the Notice costs on a defendant. The Comment states that:

Rule 23 is identical to Federal Rule of Civil Procedure 23 except for certain changes in subsections (c)(1) and (c)(2) which specifically authorize the judge to shift the costs of notice to the defendant, in whole or in part, under limited circumstances.

Second, the actual Notice costs are \$72,907, as reflected in the attached bill from the Claims Administrator. We understand that the District may consent to this amount being included in the judgment against it, but, if not, the Court, for the reasons provided, should include this obligation in the judgment over the District's objection.

CONCLUSION

For the foregoing reasons, the Court should overrule the District's remaining objections, approve the disputed claims, award pre-judgment interest as provided by D.C. law, retain jurisdiction to enforce its ruling and administer additional claims periods until the District ceases enforcing its unconstitutional "local" office requirement, and include the previously incurred Notice costs in the judgment.

Dated: October 17, 2025

Respectfully submitted,

/s/ Silvija A. Strikis

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CERTIFICATE OF SERVICE

I certify that, on October 17, 2025, the foregoing submission was served on all counsel of record listed in eFileDC, via electronic filing.

/s/ Silvija A. Strikis
SILVIJA A. STRIKIS

Exhibit A

☆☆☆ **GOVERNMENT OF THE
DISTRICT OF COLUMBIA**
OFFICE OF TAX AND REVENUE
 P.O. BOX 556
 WASHINGTON, DC 20044-0556
 FAX # (202) 442-6882

APPLICATION FOR EXEMPTION, FR-164

(Check Appropriate Boxes)

- ☐ INCOME AND FRANCHISE TAX
☐ SALES AND USE TAX (SEMIPUBLIC INSTITUTION ONLY)
☐ PERSONAL PROPERTY TAX (SEMIPUBLIC INSTITUTION ONLY)

1. Full name of organization

FEIN #

2. Complete address (number, city/town and Postal Zip Code of the organization: P.O. Box is not acceptable.) including Web site

3. Federal Exemption Status:

- ☐ Exemption recognized Date _____ Internal Revenue Code Section _____
☐ Application filed (if not recognized) Date _____ Internal Revenue Code Section _____

4. Form of Organization:

- ☐ Corporation Date of incorporation _____ State _____
☐ Other-Describe _____

5. Purpose of Organization:

- ☐ Religious ☐ Library ☐ Other: Explain: _____
☐ Charitable ☐ Educational
☐ Scientific ☐ Hospital

6. Principal Sources of Income:

- ☐ Donations ☐ Assessments ☐ Interest ☐ Other: Explain _____
☐ Grants ☐ Initiation Fees ☐ Dividends
☐ Dues ☐ Rents ☐ Business Operations

7. End of Annual Accounting Period:

8. Date activities began in the District:

9a. Physical Location(s) of Personal Property in the District:

9b. Type of Personal Property Owned by Organization:
 (Also list total cost of property owned and located in the District)

Person Authorized to Discuss Application for Exemption:

Name: _____ Title: _____

Telephone: _____ FAX: _____ E-mail: _____

Address: _____

SIGNATURE AND VERIFICATION

Under the penalties provided by law, I declare that I have examined this application, including accompanying statements, and to the best of my knowledge and belief it is true, correct and complete.

Signature of Officer

Title

Date

10a. Does the organization control or is it controlled by any other organization?

☐ Yes

If "Yes", attach explanation.

☐ No

10b. Is the organization the outgrowth of (or successor to) another organization, or does it have a special relationship with another organization by reason of interlocking directorates or other factors?

☐ Yes

☐ No

If "Yes", attach explanation.

10c. Other than a statutory office, do you maintain regular places of business outside the District?

☐ Yes

If "Yes", attach a statement indicating the locations.

☐ No

10d. Does the organization report any unrelated business income on Form 990T to the IRS?

☐ Yes

If "Yes", attach an explanation of the nature of the organization's unrelated business activities or provide a copy of the latest filed Form 990T.

☐ No

10e. Does the organization file a Form 1120POL U.S. Income Tax Return for Certain Political Organizations with the IRS?

☐ Yes

If "Yes", attach an explanation of the nature of the organization's political activities and provide a copy of the latest filed Form 1120POL.

☐ No

10f. Did the organization establish a political action committee described in section 527(f)(3) of the Internal Revenue Code?

☐ Yes

If "Yes", attach an explanation of the nature of the organization's political activities and provide a copy of the latest filed Form 1120POL.

☐ No

10g. Does the organization sell any tangible personal property or provide personal services to persons or organizations located within the District?

☐ Yes

If "Yes", attach an explanation of the nature of the organization's activities.

☐ No

10h. Did the organization purchase any tangible personal property outside the District for use in the District?

☐ Yes

If "Yes", did the organization file an appropriate sales & use tax return with the District? If no please attach an explanation.

☐ No

General Information

This application is for use by organizations who wish to apply for an exemption from the District of Columbia Income and Franchise Tax, Sales and Use Tax and Personal Property Tax. All questions on the application must be answered completely. Mail the completed application, with the various documents requested in the specific instructions, to the:

Office of Tax and Revenue, P.O. Box 556, Washington, DC 20044-0556, Attn: Exempt Organizations.
If you have questions, please call (202) 442-6586 between the hours of 7:00 a.m. and 4:30 p.m. Monday through Thursday.

Applicants for Income and Franchise Tax Exemption under Sec. 47-1802.1 of the DC Code:

Most organizations recognized by the Internal Revenue Service will qualify for exemption under the District of Columbia Income and Franchise Tax Act. The effective date for all income and franchise tax exemptions generally will be the receipt date of the application for exemption Form FR-164 by the Office of Tax and Revenue.

Applicants for Sales and Use Tax Exemption under Sec. 47-2005 of the DC Code:

Under the District of Columbia Sales and Use Tax Act sales made to any organization which qualifies as a "semipublic institution" are exempt from the tax. A "semipublic" institution is defined under Sec. 47-2001(r) of the Act as "any corporation, and any community chest, fund, or foundation, organized exclusively for religious, scientific, charitable, or educational purposes, including hospitals, no part of the net earnings of which inures to the benefit of any private shareholder or individual." This exemption is limited to those organizations, which have been recognized as tax exempt under Section 501(c) (3) of the Internal Revenue Code of 1986 (or comparable sections under prior codes).

SEMPUBLIC INSTITUTIONS ARE RECOGNIZED AS TAX EXEMPT IF PHYSICALLY LOCATED IN THE DISTRICT.

The exemption applies only to those transactions, which occur on or after the date of the issuance of a Certificate of Exemption by the Office of Tax and Revenue.

Personal Property Tax Exemption under Sec. 47-1508 of the DC Code:

Organizations requesting an exemption from DC Personal Property Tax must own the personal property for which the request is being made, and qualify under Title 47, Section 1508 of the DC Code. Organizations that may qualify for exemption are any corporation, and community chest, fund or foundation, organized exclusively for religious, scientific charitable or educational purposes, including hospitals, no part of the net earnings of which inure to the benefit of any private shareholder or individual. The effective date for personal property tax exemptions will be the July 1 following the date of the initial application request.

Specific Instructions

FILE THE FOLLOWING DOCUMENTS WITH THIS APPLICATION:

(If not currently available, state when they will be furnished).

- A. A copy of the latest determination or ruling letter you have received from the Internal Revenue Service, which either approves or denies your organization an exemption from Federal income tax.
- B. If incorporated in DC, a copy of your Certificate of Incorporation issued by the DC Department of Consumer and Regulatory Affairs, Corporations Division, or if not incorporated, a copy of your constitution, articles of association, declaration of trust, or other documents whereby you were created setting forth your aims and purposes, a copy of all amendments thereto, and any changes presently proposed.
- C. If not incorporated in DC a photocopy of a Certificate of Authority issued by the DC Department of Consumer and Regulatory Affairs, Corporations Division, must be submitted to the Office of Tax and Revenue with the Application for Exemption.
- D. If your organization has ever been recognized as tax exempt by the District, based on a previous application, please provide a copy of your DC letter of exemption or certificate of exemption.
- E. A copy of a lease, District of Columbia Occupancy Permit issued to organization or other documentation should accompany a request by a semi-public institution (501(c)(3) organization) for sales tax exemption to satisfy the physical location requirement. An organization should file Form FR-500 Combined Business Tax Registration Application with Form FR-164 Application for Exemption if not previously registered with the Office of Tax and Revenue.
- F. An organization should file Form FR-500 Combined Business Tax Registration Application with Form FR-164 Application for Exemption if not previously registered with the Office of Tax and Revenue.