SUPREME COURT

OF THE

STATE OF CONNECTICUT

S.C. 20340

GREAT PLAINS LENDING LLC, CLEAR CREEK LENDING AND JOHN R. SHOTTON,
PLAINTIFFS-APPELLANTS/CROSS-APPELLEES

v.

STATE OF CONNECTICUT, DEPARTMENT OF BANKING, JORGE PEREZ, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE DEPARTMENT OF BANKING,
DEFENDANTS-APPELLEES/CROSS-APPELLANTS

REPLY BRIEF OF CROSS-APPELLANTS

FOR THE DEFENDANTS-APPELLEES/ CROSS-APPELLANTS:

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INTRODUCTION

This Court should not extend tribal immunity from Connecticut's laws to out-of-state businesses without requiring a showing that the business is in ***fact*** operating as an "arm of the tribe." Accordingly, this Court should adopt the formal-and-functional legal standard adopted by the highest courts of four sister states. Where the corporation is in the business of violating state lending laws, the corporation should not be protected by tribal immunity unless the tribe is financially at risk for the conduct of the business.

On cross-appeal, the Appellees/Cross-Appellants, State of Connecticut, Department of Banking, and its Commissioner, Jorge Perez (collectively, the "Department") raised three issues, specifically that: (1) the trial court erred in its "arm-of-the-tribe" legal standard and application of facts to the legal standard; (2) the trial court erred by linking John R. Shotton's liability to the corporate entities' liability and immunity; and (3) the trial court erred by remanding the case back for a further evidentiary hearing: *See* Dept. br. ii (cross-appeal issues listed with cross-references to pages in the brief).

The Department hereby replies to the response brief submitted by the Plaintiffs/Appellants/Cross-Appellees Great Plains Lending LLC, Clear Creek Lending and John R. Shotton (collectively, the "Lenders"), in response to the Department's cross-appeal. In its combined cross-appellee and appellant reply brief, Lenders specifically referenced the cross-appeal on the arm-of-the-tribe standard (Reply/Cross br. 3 n.1, 9-14). Lenders also responded to the other two issues raised on cross-appeal. *See* Reply/Cross br. 4-8 (regarding remand for evidentiary hearing); 24-27 (regarding Mr. Shotton's liability). The Department offers this reply brief regarding its three cross-appeal issues.

ARGUMENT

In its order on appeal, the trial court held that (i) Lenders bore the burden of proof of establishing tribal sovereign immunity by a preponderance of the evidence (Lenders' Appendix ("App.") A280); (ii) a "functional" as well as a "formal" analysis of the relationship between a tribe and the commercial entity was necessary to determine whether tribal immunity should apply, but the Department purportedly erred by giving "primacy" to the "financial relationship" between Lenders and the Tribe, in particular the lack of tribal liability for corporate actions, thus requiring a remand to reconsider the claim (App. A285-286, A289, A292-A295); (iii) Mr. Shotton's liability "rises and falls with the determination" of whether the corporate lenders are arms-of-the-tribe (App. A289); and (iv) on the record below, the materials submitted by Lenders only provided formal information and did not provide the requisite functional information, and more functional evidence "addressing these practical considerations" was necessary to determine tribal immunity (App. A296). The trial court remanded the matter back to the agency for further proceedings, inviting both sides to submit additional evidence to meet the legal standard. *Id*.

In this appeal and cross-appeal, the parties disagree regarding who bears the burden of proof—the Department agrees with the trial court decision whereas Lenders assert that the Department should bear the burden.[1] The parties also disagree on the applicable legal

[1] The burden of proof issue is briefed as part of the Lenders' appeal. *See* Lenders br. 15-19; Dept. br. 13-18; Reply/Cross br. 5-8. *See also Hwal'Bay Ba v. Jantzen*, 248 Ariz. 98, 106 (2020) (corporation asserting arm-of-the-tribe sovereign immunity bears the burden by "a preponderance of the evidence."); *Williams v. Big Picture Loans, LLC*, 929 F.3d 170, 176-177 (4th Cir. 2019) (as entities with best access to evidence needed to demonstrate immunity, entities claiming immunity bear burden of proof).

In their reply brief, Lenders cite new cases to support a new argument—that tribal immunity is really a challenge to personal jurisdiction and requires burden shifting. Reply/Cross br. 7-8, *citing Cogswell v. Am. Transit Co*., 282 Conn. 505, 515 (2007) and *Stevens v. Khalily*, 194 Conn. App. 626, 629 (2019). Both *Cogswell* and *Stevens* concerned

standard for determining arm-of-the-tribe status. The Department agrees with the trial court that a functional legal standard applies but submits that the trial court erred by disregarding the impact of financial liability in its analysis. Dept. br. 18-25. Lenders disagree with the trial court's arm-of-the-tribe legal standard and seek a wholly formalistic approach. Lenders br. 19-24; Reply/Cross br. 8-21. The parties further disagree regarding how and under what standard liability for Mr. Shotton should be considered. Lenders br. 24-28; Dept. br. 33-40; Reply/Cross br. 21-27.

The parties do, however, agree that no remand was necessary. Both sides contend that their respective sides should have prevailed based upon the record below. Because the trial court properly found that Lenders had only proffered a handful of corporate forms and failed to provide any functional evidence, under the arm-of-the-tribe legal standard adopted by the trial court, Lenders failed to satisfy their burden of proof, and the decision below should have been affirmed.

To the extent the matter is remanded back for an administrative hearing, however, the Department agrees with the trial court that Lenders' claims of tribal sovereign immunity should be determined in accord with administrative hearing procedures under the Uniform Administrative Procedures Act, Conn. Gen. Stat. § 4-166 *et seq*. and the Department's regulations, and that the Department should be free to conduct discovery and to submit additional evidence to conform with the arm-of-the-tribe legal standard adopted by this Court.

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explicit personal jurisdiction challenges with respect to service and minimum contacts. Neither address tribal immunity. Lenders' attempt to convert a special defense into a personal jurisdictional challenge is unavailing because they conceded that they were conducting business in Connecticut and raised none of the elements of a personal jurisdiction challenge. *See* App. A82, A87-A103. *See also* App. A64 ¶¶9-12. Rather, Lenders asserted tribal immunity from liability for violating Connecticut's usury limitations. *Id.* Further, Lenders only submitted argument and evidence below regarding their claim of tribal sovereign immunity.

I. The Trial Court Properly Held that the Arm-of-the-Tribe Legal Standard Must Include a Functional as well as a Formal Analysis, but Improperly Disregarded the Importance of Financial Liability, Particularly for Entities in the Business of Violating State Lending Laws.

An issue of first impression before this Court, Connecticut should join the states that require both a formal and a functional analysis to arm-of-the-tribe claims. As the highest courts in Arizona, Alaska, California and New York have held, an arm-of-the-tribe analysis is not a "form over substance" inquiry and requires both a formal and a functional analysis. *See Hwal'Bay Ba v. Jantzen*, 248 Ariz. 98, 110 (2020); *People ex rel. Owen v. Miami Nation Enterprises*, 2 Cal.5th 222 (2016); *Sue/Perior Concrete & Paving, Inc. v. Lewiston Golf Course Corp.*, 24 N.Y.3d 538 (2014); *Runyon ex rel. B.R. v. Ass'n of Village Council Presidents*, 84 P.3d 437 (Alaska 2004).[2] "Arm-of-the-tribe immunity must not become a doctrine of form over substance. The ultimate purpose of the inquiry is to determine whether the entity acts as an arm of the tribe so that its activities are properly deemed to be those of the tribe." *Hwal'Bay*, 248 Ariz. at 110 (internal citations omitted).

The cases list similar "factors" for determining whether an entity is acting as an arm-of-the-tribe. A comparison of the factors proposed by Lenders with the lists from *Hwal'Bay, Miami Nation* or *Sue/Perior* does not reveal significant differences. *Compare* Reply/Cross br. 15, listing six factors from *Breakthrough Management Group, Inc. v. Chukchansi Gold Casino & Resort*, 629 F.3d 1173, 1187 (10th Cir. 2010) *with Hwal'Bay*, 248 Ariz. at 108-110 (discussing five similar factors), *Miami Nation*, 2 Cal.5th at 236 (requiring five similar factors), *and Sue/Perior*, 24 N.Y.3d at 546-547 (listing nine factors that reflect the elements of the

[2] Lenders advocate a solely formalistic standard for evaluating arms-of-the-tribe status and expressly ask this Court to reject a "functional" approach. Reply/Cross br. 8-21. The trial court properly rejected a strictly formal approach and incorporated a functional standard into its analysis. *See* App. A280-A289 and extensive discussion at Dept. br. 13-29, Lender br. 19-24, Reply/Cross br. 8-21.

above factors). All of the various factors delve into the formation of the entity, its corporate form and the control within the entity (the formal aspects), as well as the managerial and financial relationships between the entity and the tribe (both formal and functional aspects). All of the proposed factors consider the purpose of tribal immunity and whether extending immunity to the entity will further the purposes of tribal sovereign immunity.

At its core, an arm-of-the-tribe analysis is a factual inquiry. The real difference lies with the application of these listed factors, the weight given to any particular factor, and whether simply the submission of proper corporate forms alone will suffice, or whether functional evidence is also needed to make the factual determination.

Lenders do not cite a single case that holds that only submitting the proper corporate forms is sufficient. Lenders primarily rely upon *Williams v. Big Picture Loans, LLC*, 929 F.3d 170 (4th Cir. 2019), where tribal immunity was found for a tribal payday lending business. Reply/Cross br. 16-20. However, the *Williams* court expressly considered functional evidence. In *Williams*, substantial, detailed financial data was provided to the courts in support of tribal immunity, including various sales agreements, loan agreements, promissory notes, financial payments from the corporation to the tribe and the vendors, the number of tribal employees, email communications, how monies received by the Tribe were used, and the interconnection by and among the various lending entities. *Williams*, 929 F.3d at 174-175. *See Breakthrough*, 629 F.3d at 1179 (held evidentiary hearing and heard live testimony). *See also* Dept. br. 20-21. Contrary to Lenders' argument, the *Williams* factual evidence was extensively used for analyzing the purpose, control and financial relationship prongs of the analysis. *Williams.* 929 F.3d at 178-182 (purpose), 182-184 (control), 184-185 (financial relationships). *Cf.* Reply/Cross br. 19-20. Although the Fourth Circuit disagreed with the

district court's application of the law to the facts, the *Williams* Court did not hold that the functional information was unnecessary or irrelevant. Rather, the *Williams* court applied both a formal and a functional analysis.

The *Williams* court's formal-and-functional approach is consistent with the formal-and-functional approaches adopted by the highest state courts. For example, in *Hwal'Bay*, the plaintiff had been injured during a rafting trip through the Grand Canyon. 248 Ariz. at 105-106. The rafting boat was operated by a company solely owned by the Hualapai Indian Tribe. *Id*. In making its determination that the company had not satisfied its burden of establishing tribal immunity, the Arizona Supreme Court noted that the company looked good "on paper" but failed to present evidence addressing "several significant functional attributes of the relationship" between the company and tribe. *Id*. at 111-112.

Here, Lenders failed to submit any functional evidence to satisfy arm-of-the-tribe immunity legal standards. As the parties bearing the burden of proof, Lenders solely relied upon a handful of formal corporate documents. *See* App. A151-A184. There were some notable omissions from the Lenders' corporate documents, including the Articles of Formation for both Great Plains and American Web Loan as well as the Operating Agreement for American Web Loan d/b/a Clear Creek. Moreover, Lenders provided no evidence regarding the functional aspects of the business-tribe relationship. No contractual or financial information regarding the payday lending business was provided. No financial information was provided regarding money sent to the Tribe. No information was provided regarding who else had invested in the Lending Corporations and under what terms, and whether any of the business revenues were encumbered in any way. No managerial information was provided, including whether any tribal members were hired and who managed the business. In short,

Lenders sought to "look good on paper" but utterly failed to provide any functional, factual evidence as to how the businesses truly operate.

Several courts analyzing claims of arm-of-the-tribe sovereign immunity have addressed the role of "who bears the financial risk" in the analysis. Thus, the highest appellate courts of Arizona, California, Alaska and New York have all held that lack of any financial responsibility on the part of the tribe weighs against a claim of tribal immunity. See *Hwal'Bay*, 248 Ariz. at 109 ("The court should determine whether the tribe's assets are protected from judgments entered against the entity."); *Miami Nation,* 2 Cal.5th at 247 ("starting point for analyzing the financial relationship between the entity and the tribe is whether a judgment against the entity would reach the tribe's assets."*); Runyon*, 84 P.3d at 440 ("The entity's financial relationship with the tribe is therefore of paramount importance—if a judgment against it will not reach the tribe's assets or if it lacks the power to bind or obligate the funds of the tribe, it is unlikely that the tribe is the real party in interest.) (internal citation omitted); *Sue/Perior Concrete*, 24 N.Y.3d at 550 ("the most significant factor is the effect on tribal treasuries"). *Cf.* App. A285-A286. Even the *Williams* court agreed that who bears the financial risk is an element in the analysis. *Williams*, 929 F.3d at 184 ("whether a judgment against an entity would reach the tribe's assets is a relevant consideration."). The courts differ as to the weight to accord the lack of financial responsibility, but they all consider it to be an essential inquiry.

There is a divide, however, as to whether the lack of financial responsibility is a significant factor in the analysis. The highest courts of New York and Alaska have held that financial liability of the tribe is a significant factor in an arm-of-the-tribe analysis. *Sue/Perior*, 24 N.Y.3d at 550-551 ("protection of a tribal treasury against liability is a corporate charter is

strong evidence against the retention of sovereign immunity by the corporation."); *Runyon*, 84 P.3d at 441 (whether a claim against the entity would reach the tribes assets is "of paramount importance"). The rationale of using financial liability as a threshold inquiry should be most applicable in circumstances where the entity is in the business of violating state law. A corporate entity should not be able to use tribal immunity as a shield against state consumer protection laws where the tribe is completely insulated from any financial risk or liability. The tribe simply is not the real party in interest in those circumstances.

Where, as here, the entity seeking tribal immunity protection is in the business of violating state lending laws, this Court should adopt a legal standard holding that the lack of financial responsibility by the tribe is a significant element within a multifactor standard. Lenders here were lending to Connecticut residents at well above the state statutory maximum rate of 12%. *See* App. A63-A64 (offering loans at annual interest rates ranging from 199.44% to 448.76%); Conn. Gen. Stat. §§ 36a-555; 63a-573. Indeed, Lenders were lending well above the interest rate limits of 18% and 24% for loans offered within the Tribe. *See* App. A327; Dept. Appendix A291.

Essentially, payday lending associated with tribes are in the business of violating state lending laws—blatantly trading on tribal immunity. "[A] tribe has no legitimate interest in selling an opportunity to evade state law." *Otoe-Missouria Tribe of Indians v. New York State Department of Financial Services*, 769 F.3d 105, 114 (2d Cir. 2014). Great Plains, and other similar lenders, are the subject of consumer class actions out of Vermont and California for the same behavior underlying the Department's regulatory action here. *Gingras v. Think Finance, Inc*., 922 F.3d 112 (2d Cir. 2019) (Vermont borrowers brought class action regarding payday loans at usurious interest rates in violation of Vermont and federal law); *Brice v. 7HBF*

No. 2, Ltd., 2019 WL 5684529 (N.D. Calif. November 1, 2019) (California class action concerning Great Plains Lending offering payday loans). *See also Otoe-Missouria Tribe*, 769 F.3d at 116 (lenders offering payday loans seek to "profit from leveraging an artificial comparative advantage, one which allows them to sell to consumers a way to evade state law."). Because there is no legitimate interest in selling a license to violate state law, for claims of tribal immunity for such businesses, the tribe must be the real party in interest and should actually bear financial risk for the business' action.

Although arm-of-the-tribe analyses should always include both a formal and a functional element, scrutiny of those elements should be particularly rigorous when the business under review involves circumventing state law. The trial court should have affirmed the Department's application of arm-of-the-tribe legal standards, including giving significant weight to the lack of any financial risk on the part of the Tribe.

II. The Trial Court Erred in its Analysis of Individual Corporate Officer Liability vis-à-vis Corporate Liability and Immunity.

On direct appeal, Lenders contend that the trial court erred because even if the corporate entities were not protected by tribal immunity, Mr. Shotton should have been dismissed from the litigation because he was acting "in his capacity as a tribal officer." Dept. br. ii.I.A.[3] On cross-appeal, the Department contends that even if the corporate entities are protected by tribal immunity, Mr. Shotton remains liable for both civil damages and injunctive relief, and thus the trial court erred in holding that Mr. Shotton's liability wholly depends upon the arm-of-the-tribe analysis as applied to the corporate entities. Dept. br. ii.II.C.

[3] As set forth in the briefing on direct appeal, if the corporate entities are not protected by tribal immunity, then the actions taken by their corporate secretary/treasurer are likewise not protected. *See* Dept. br. 33-40.

To support its cross-appeal, the Department relied upon the U.S. Supreme Court's decision in *Lewis v. Clark*, which held that an individual tribal member could remain liable for damages. *See* Dept. br. 34-37, *citing Lewis v. Clark*, 137 S.Ct. 1285 (2017). With respect to injunctive relief, the Department relied upon the Second Circuit's analysis in a comparable payday lending case, *Gingras v. Think Finance*, which held that individual tribal members could remain liable for injunctive relief. *See* Dept. br. 38-39. In their Reply/Cross brief, the Lenders fail to even cite *Gingras* and seek to minimize the impact of *Lewis*. *See* Reply/Cross br. 21-27.

The Department's administrative action was against Mr. Shotton in his capacity as secretary/treasurer of Great Plains Lending and American Web Loan Inc. d/b/a Clear Creek Lending. App. A63 ¶¶3, 5, A66 ¶2, A67 ¶¶4, 6, A107 ¶11. The Department sought both injunctive relief and civil penalties against him for the corporate Lenders' actions of offering usurious loans. App. A69-A72. The Department's claims are against Mr. Shotton for his actions as a corporate officer of the corporate companies. *Cf.* Reply/Cross br. 21-22.

With respect to the administrative order for civil penalties against him, "[s]overeign immunity does not shield individual tribal employees sued in their personal capacities, even if the tribe is obligated to indemnify them." *Hwal'Bay*, 248 Ariz. at 106, *citing Lewis*, 137 S.Ct. at 1288. Lenders argue that a recent Appellate Court decision holds otherwise. Reply/Cross br. 23-24, *citing Drabik v. Thomas*, 184 Conn. App. 238 (2018). *Drabik* is simply inapposite. Mr. Shotton was sued for participating in a payday lending scheme where the loans clearly violated the usury laws in the states where they were offered, at rates that were in far excess of what would be allowed within the Tribe. *See* App. A327; Dept. App. A291 (Tribal criminal usury law limits rates to 18%-24%). By contrast, in *Drabik*, the individual tribal officials were

the tribal historic preservation officer and his deputy, acting on tribal business in protecting tribal historical sites on tribal land from adverse impact by the placement of a cell tower. *Drabik*, 184 Conn. App. at 239. The "real party in interest" in *Drabik* clearly was the tribe and its historical sites. *Id*. at 245-248. Here, Lenders failed to provide functional evidence to satisfy the requisite "real party in interest" inquiry.

With respect to injunctive relief for claims against Mr. Shotton, the reasoning set forth in *Gingras* is compelling and instructive for this Court. While never citing to *Gingras* directly, Lenders attempt to discount *Gingras'* reliance upon *Ex parte Young*, arguing that *Young* only concerned federal law claims and served as an enforcement mechanism for Supremacy Clause claims. *See* Reply/Cross br. 25-26, *discussing Ex parte Young*, 209 U.S. 123 (1908). Lenders also contend that authorization of individual suits in *Michigan v. Bay Mills Indian Cmty*., 572 U.S. 782, 796 (2014) was *dicta* and contrary to *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89 (1984). Reply/Cross br. 25-26. These same arguments were made to and rejected by the *Gingras* court. Lenders' efforts to attack the *Gingras* decision *sub silencio* fail.

In *Gingras*, the Second Circuit held that claims against tribal officials were not barred by tribal immunity for claims concerning payday loans made by an online lending operation owned by an Indian Tribe in Montana, in violation of Vermont's usury laws. As the *Gingras* court held, "the Supreme Court has already blessed *Ex parte Young*-by-analogy suits against tribal officials for violations of state law." *Gingras*, 922 F.3d at 121. The "Supreme Court recognized that 'Michigan could bring suit *against tribal officials* or employees (rather than the Tribe itself) seeking an injunction.' We think this plain statement that tribal officials can be sued to stop unlawful conduct by a tribe definitively resolves the issue here." *Id., citing*

Bay Mills, 572 U.S. at 796 (internal case citation omitted; emphasis in original). *See* Dept. br. 38-39. The *Gingras* court extensively discussed, evaluated, and ultimately rejected the argument about *Pennhurst*. *See Gingras*, 922 F.3d at 122-124. The *Gingras* court held there were "no concomitant sovereignty concerns, however, that prevent the federal courts from instructing a tribal official how to conform that official's conduct to either state or federal law." *Id*. at 123. Thus, "*Bay Mills* was not a wayward departure from, but rather a clear demarcation of, the outer limits of tribal sovereign immunity." *Id*. For all the reasons set forth in *Gingras*, Lenders' arguments should be rejected.

Finally, it bears noting that *Gingras* concerned challenges to payday loan companies that sought the cover of tribal connections to make what otherwise would be prohibited, usurious loans in direct violation of state law. In both *Gingras* and *Hwal'Bay*, the courts properly declined to permit the individual corporate and tribal officers to escape liability by asserting tribal sovereign immunity. For the reasons set forth in *Gingras*, *Hwal'Bay*, *Bay Mills* and *Lewis*, Mr. Shotton cannot evade the Department's Orders for civil penalties and injunctive relief even if the corporate entities were found to be arms of the tribe.[4]

III. The Trial Court Erred by Remanding the Case Back for a Further Evidentiary Hearing.

By remanding for a new hearing, Lenders contend that the Department is now getting "a third bite at the apple." Reply/Cross br. 4. Because Lenders failed twice over to sustain their burden of proof, the remand benefits Lenders, not the Department. Lenders concede

[4] Lenders repeat their efforts to introduce the concept of qualified immunity into this appeal. Reply/Cross br. 24. They never raised it on appeal (except in a footnote) and thus have waived it. *See Woodrow Wilson of Middletown, LLP v. CHFA*, 294 Conn. 639, 643 n.4 (2010). On the merits, they fail to cite a single case finding qualified immunity in these circumstances, and for good reason—it only applies to claims of constitutional violations against government actors under 42 U.S.C. § 1983, and not violations of federal or state laws by private actors.

that they had “intentionally chosen to forego the introduction of evidence of its own,” and merely relied upon a single affidavit and a handful of formal corporate formation documents. *See* Reply/Cross br. 4 n.2, 8; App. A105-A184. Because the trial court properly held that the Lenders proffered only formal and not functional evidence to support Lenders’ claim of tribal sovereign immunity, under the arm-of-the-tribe legal standard adopted by the trial court, Lenders failed to satisfy their burden of proof and thus the Department’s decision should have been affirmed.

The trial court ordered the remand because it disagreed with the amount of weight the Department placed upon the lack of financial liability by the tribe in its Decision. App. A285-A289. For the reasons set forth in detail above, the trial court erred in rejecting the weighing of a tribe’s financial liability in conducting a review of a claim of tribal immunity, especially when considering corporate entities with tribal connections that are blatantly circumventing state consumer protection and lending laws. Lenders proffer this enterprise as a way to make money. Reply/Cross br. 17. When the product for sale is avoidance of state consumer protections, who bears financial liability is a foundational building block to the immunity inquiry. Put another way, one should not be able to “rent-a-tribe” in order to make money by violating state and federal laws—such financial arrangements should face rigorous scrutiny. *See, e.g Otoe-Missouria Tribe,* 769 F.3d at 114, 116; *Gingras*, 922 F.3d at 120.

The Department recognizes that establishing an arm-of-the-tribe legal standard is an issue of first impression before this Court. Although the Department continues to advocate for judgment in its favor, to the extent this Court determines further administrative proceedings are necessary, the Department asks that this Court expressly place the burden of proof upon the entities asserting immunity and affirm that on remand Lenders’ claims of

tribal sovereign immunity shall be determined in accord with administrative hearing procedures under the Uniform Administrative Procedures Act, Conn. Gen. Stat. § 4-166 *et seq*. and the Department's regulations, including the opportunity for discovery and submission of additional evidence.

CONCLUSION

For the reasons set forth above, the Department respectfully requests that its cross-appeal be sustained.

Respectfully submitted,
APPELLEES/CROSS-APPELLANTS
STATE OF CONNECTICUT, DEPARMENT OF BANK, JORGE PEREZ, in his official capacity as Commissioner of the Department of Banking

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CERTIFICATION

Pursuant to Connecticut Practice Book §§ 66-2, 66-3, 67-2 and 67-2, as modified by the COVID-10-related orders of the Chief Justice, the undersigned attorney hereby certifies that:

(1) the electronically submitted brief has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law;

(2) the brief being filed with the appellate clerk is a true copy of the brief that was submitted electronically;

(3) the brief complies with all applicable provisions of appellate procedure including the provisions of Conn. Practice Book §§ 67-2, 67-3; and

(4) the electronically-submitted brief has been electronically transmitted to the last known e-mail address of each counsel of record for whom an e-mail address has been provided as listed below, on this 29th day of May, 2020 by undersigned counsel:

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