

**No. 22-11024**

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

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IN RE: TALAL QAIS ABDULMUNEM AL ZAWAWI,

DEBTOR IN A FOREIGN

PROCEEDING.

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TALAL QAIS ABDULMUNEM AL ZAWAWI,

PLAINTIFF - APPELLANT,

v.

COLIN DISS, ET AL,

DEFENDANTS - APPELLEES.

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On Appeal from the United States District Court for the  
Middle District of Florida No. 6:21-cv-00894-GAP (Presnell, J.)

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**REPLY OF *AMICI CURIAE* TO APPELLANT'S RESPONSE IN  
OPPOSITION TO MOTION TO FILE AMICUS BRIEF**

Jacqueline Calderin  
Robert P. Charbonneau  
Agentis Law  
55 Alhambra Plaza  
Suite 800  
Coral Gables, Florida 33134  
Tel. 305.722.2002  
*JC@agentislaw.com*  
*RPC@agentislaw.com*

*Attorneys for Amici Curiae*

## CERTIFICATE OF INTERESTED PERSONS

In compliance with Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1–26.1-3, *Amici Curiae* American College of Bankruptcy, Daniel Glosband, Jay Westbrook, Patricia Redmond, and Allan L. Gropper, identify all attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this case:

Al Zawawi, Talal Qais Abdulmunem  
Blanco, Leyza F.  
Davie, Hannah  
Diss, Colin  
Grant Thornton UK LLP  
Hammoud, Leila Kassem  
Hawthorne Groves Apartments, Inc.  
Hawthorne Village at Port Orange, Inc.  
Herron Jr., Kenneth D.  
IMF Bentham Row SPV 1 Limited  
Leeds, Michael  
Omni Bridgeway LTD (Ticker symbol MXG1.HM)  
Qapa Holdings, Inc.  
Qapa Investing Company U.S.A., Inc.  
Qapa Investing Corporation, N.V.  
Sequor Law, P.A.  
Texas Q Zone, Inc.  
Vicens Beard, Cristina

Date: 09/27/2022

/s/ Jacqueline Calderin  
Jacqueline Calderin

## CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1, *Amici Curiae* American College of Bankruptcy, Daniel Glosband, Jay Westbrook, Allan L. Gropper, and Patricia Redmond identify any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation:

1. There is no such corporation.

Respectfully submitted,

/s/ Jacqueline Calderin

Jacqueline Calderin

Robert P. Charbonneau

Agentis Law

55 Alhambra Plaza

Suite 800

Coral Gables, Florida 33134

Tel. 305.722.2002

*JC@agentislaw.com*

*RPC@agentislaw.com*

*Counsel for Amici Curiae*

Dated: September 27, 2022

Appellant asserts in its Response In Opposition To Motion Of *Amici Curiae* For Leave To File Amicus Curiae Brief In Support Of Appellee and Affirmance (Appellant’s Response”) that this Court should deny the Motion of the American College of Bankruptcy, Daniel Glosband, Jay Westbrook, Patricia Redmond And Allan L. Gropper For Leave To File Amicus Curiae Brief In Support Of Appellee and Affirmance (the “Amicus Motion”) for two reasons: (1) a request to file an amicus brief was denied by the District Court in the context of the initial appeal of the Bankruptcy Court’s recognition of the foreign proceeding in which Appellant is a debtor and (2) the amicus brief would be duplicative of the well-represented interests of the Appellees.

#### **I. DISTRICT COURT DENIAL**

The proposal to file an amicus brief in the District Court was made by Professor Westbrook and Mr. Glosband, who Appellant suggests have no more than a “casual, academic interest ...as a matter of intellectual curiosity” (Appellant’s Response p. 9). “Casual interest and intellectual curiosity” hardly describe careers of publishing articles and books developing the legal reforms leading to Chapter 15, epitomized by work for the American Law Institute’s Transnational Insolvency Project (where Professor Westbrook served as U.S. Reporter) and, respectively, as heads of the American government and International Bar Association delegations that negotiated the Model Law that

became Chapter 15. While their involvement in drafting the Model Law on Cross-Border Insolvency and its progeny, chapter 15 of the Bankruptcy Code, and their ongoing involvement in proposed revisions to chapter 15 belie that their interest is merely casual, Professor Westbrook and Mr. Glosband are joined by an active, highly respected practitioner within the Eleventh Circuit (Ms. Redmond); a retired bankruptcy judge with extensive judicial and academic experience with cross-border insolvency (Mr. Gropper); and the nation's premier organization of bankruptcy practitioners (the American College of Bankruptcy) (the "*Amici Curiae*").

The *Amici Curiae* have ongoing involvement with chapter 15 in practice, in teaching, in legislative reform and in treatise and academic writing. The issue at the heart of this appeal, whether section 109(a) of the Bankruptcy Code applies to chapter 15 recognition, applies to every chapter 15 case that is filed and is not simply a matter that affects only the parties to the within appeal. As stated in Appellee's Statement Regarding Oral Argument, "...resolution of this issue will have significant implications in the field of cross-border insolvency." One of the duties of law reformers—academics and practitioners—is to aid the courts in seeing a statutory enactment from a larger perspective, especially when it is intended by Congress to permit and promote international cooperation. The broader, non-party analysis presented by the expanded group of *Amici Curiae* will

help the Court by providing a perspective “beyond what the parties are able to do.” Appellant’s Response, p. 9.

## **II. THE BRIEF OF THE *AMICI CURIAE* IS NOT DUPLICATIVE OF THE APPELLEE’S BRIEF**

Appellee focuses in its brief on statutory language that precludes application of section 109(a) as a requirement for recognition of a foreign proceeding. In Contrast, the *Amici Curiae* focus on two issues intrinsic to the structure of chapter 15 – the different statutory mechanisms for commencement of chapter 15 cases and commencement of cases under chapter 7,11, 12 and 13, and the implications of the two different definitions of “debtor” in sections 101(13) and 1502; and a third issue - the practical impediments and illogical consequences that adoption of Appellant’s position would create. The *Amici Curiae* present a structural analysis of the Bankruptcy Code case commencement procedures and of the implications of the two different definitions of “debtor” (in section 101(13) and section 1502) that militate against application of section 109(a). The *Amici Curiae* also discuss the practical need – as contemplated by the Model Law and chapter 15 - to allow recognition of foreign proceedings in situations where the debtor in the foreign proceeding may never have property, a domicile or place of business in the United States or where determining whether the debtor has such attributes is the primary purpose of the chapter 15 proceeding.

While these issues may have been touched in passing in the Appellee's Brief, they have not been analyzed in depth and have not been presented from the broad, non-case specific perspective of the *Amici Curiae*.

For these reasons, the *Amici Curiae* believe that their brief is not duplicative of the Appellee's Brief and will be helpful to the Court. They respectfully request that this Court grant the Amicus Motion.

Dated: September 27, 2022

/s/ Jacqueline Calderin  
Jacqueline Calderin  
Robert P. Charbonneau  
Agentis Law  
55 Alhambra Plaza  
Suite 800  
Coral Gables, Florida 33134  
Tel. 305.722.2002  
*JC@agentislaw.com*  
*RPC@agentislaw.com*

*Counsel for Amici Curiae*



## CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document complies with the type-volume limitation of Fed. R. App. 27(d)(2)(C) because this Reply contains 745 words, excluding the parts exempted by Fed. R. App. P. 32(f).

This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word Times New Roman 14-point font.

Date: 09/27/2022

/s/ Jacqueline Calderin  
Jacqueline Calderin