

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ENTESAR OSMAN KASHEF, *et al.*,

Plaintiffs,

-against-

BNP PARIBAS S.A., BNP PARIBAS S.A. NEW
YORK BRANCH, BNP PARIBAS NORTH
AMERICA, INC., and DOES 2-10,

Defendants.

Civil No. 1:16-Civ-03228-AJN

Hon. Alison J. Nathan

**DECLARATION OF RATHNA J. RAMAMURTHI IN FURTHER SUPPORT OF THE
MOTION TO DIMISS THE SECOND AMENDED COMPLAINT FILED BY BNP
PARIBAS S.A. AND BNP PARIBAS NORTH AMERICA, INC.**

Pursuant to 28 U.S.C. § 1746, Rathna J. Ramamurthi declares as follows:

1. I am an attorney admitted to practice before this Court and an associate at Cleary Gottlieb Steen & Hamilton LLP, counsel for defendants BNP Paribas S.A. and BNP Paribas North America, Inc. (together, the “BNPP Defendants”) in the above-captioned matter. I submit this declaration on behalf of the BNPP Defendants in further support of their Motion to Dismiss the Second Amended Complaint and in connection with the Court’s Orders dated March 3, 2020, ECF No. 151 and March 20, 2020, ECF No. 155.

2. Attached to this declaration as Exhibits A-E are true and correct copies of the following documents:¹

Ex.	Document
A	Excerpts from the July 31, 2020 Deposition of Franz Werro

¹ Exhibits B-8–B-29, B-32, B-42, and B-44–B-49 are decisions of Federal Supreme Court of Switzerland.

- B Corrected Supplemental Declaration of Franz Werro, dated July 23, 2020 (Deposition Exhibit 15), and exhibits:
- B-1. Curriculum Vita of Dr. Franz H. G. Werro
 - B-2. Code Des Obligations [CO] [Code Of Obligations] Mar. 30, 1911, RS 220 (Switz.) with English Translation
 - B-3. Code Des Obligations [CO] [Code Of Obligations] Mar. 30, 1911, RS 220 (Switz.) with English Translation
 - B-4. Code Civil [CC] [Civil Code] Dec. 10, 1907, RS 210, art. 1 (Switz.) with English Translation
 - B-5. Code Civil [CC] [Civil Code] Dec. 10, 1907, RS 210, art. 1 (Switz.) with English Translation
 - B-6. Code Pénal Suisse [CP] [Criminal Code] Dec. 21, 1937, RO 311 with English Translation
 - B-7. Code Pénal Suisse [CP] [Criminal Code] Dec. 21, 1937, RO 311 with English Translation
 - B-8. BGE 101 II 69 with Certified English Translation
 - B-9. BGE 104 II 225 with Certified English Translation
 - B-10. BGE 107 II 82 with Certified English Translation
 - B-11. BGE 112 II 118 with Certified English Translation
 - B-12. BGE 112 II 138
 - B-13. BGE 115 II 42
 - B-14. BGE 122 II 234 with Certified English Translation
 - B-15. BGE 126 II 145 with Certified English Translation
 - B-16. BGE 145 III 72
 - B-17. BGE 42 II 473
 - B-18. BGE 45 II 304
 - B-19. 4A_185/2007
 - B-20. 4A_38/2018 with Certified English Translation

- B-21. 4A_444/2010 with Certified English Translation
- B-22. 4A_455/2014
- B-23. A_56/2009 with Certified English Translation
- B-24. 4A_594/2017 with Certified English Translation
- B-25. 4C.77/2001 with Certified English Translation
- B-26. 4C_79/2001 with Certified English Translation
- B-27. BGE 57 II 417
- B-28. 6B_253/2012 with Certified English Translation
- B-29. BGE 71 II 107 with Certified English Translation
- B-30. Christoph Müller, La solidarité parfaite [Perfect Joint and Several Liability], in *Pluralite des responsables : colloque de droit de la responsabilite civile 2007*, Universite de Fribourg, Bern 31, 35 (Franz Werro ed. 2009) with Certified English Translation
- B-31. Vincent Perritaz, Le concours d'actions et la solidarite [Concurrent Actions And Joint And Several Liability] 71 (2017) with Certified English Translation
- B-32. BGE 111 II 68 with Certified English Translation
- B-33. Franz Werro, Article 41 CO, in *Commentaire Romand, Code des Obligations I* (Franz Werro & Luc Thévenoz eds. 2012) with Certified English Translation
- B-34. Franz Werro, Introduction aux articles 50-51 CO, in *Commentaire Romand, Code des Obligations I* (Franz Werro & Luc Thévenoz eds. 2012) with Certified English Translation
- B-35. Franz Werro, Article 50 CO, in *Commentaire Romand, Code des Obligations I* (Franz Werro & Luc Thévenoz eds. 2012) with Certified English Translation
- B-36. Franz Werro, La responsabilite civile 107-09 (3d ed. 2017) with Certified English Translation
- B-37. Franz Werro, La responsabilite civile 83, 85-86 (2d ed. 2011) with Certified English Translation

- B-38. Franz Werro, Article 1 CC, in Commentaire Romand, Code Civil I (Pascal Pichonnaz & Benedict Foëx eds. 2010) with Certified English Translation
- B-39. Roland Brehm, Art. 50 / Erster Teil Art. 50 Abs. 1: Die Solidarhaftung [Article 50 / First Part Art. 50 Para. 1: Joint and Several Liability], in Die Entstehung durch unerlaubte Handlungen [in: Emergence through unlawful actions], ART. 41 - 61 OR 630-31 (4d ed. 2013) with Certified English Translation
- B-40. Vincent Perritaz, L'art. 50 al. 1 CO : une norme qui fonde la responsabilité ?, in Aktuelle Juristische Praxis (AJP) 795 (2018) with Certified English Translation
- B-41. H.-U. Brunner, Die Anwendung deliktsrechtlicher Regeln auf die Vertragshaftung [The Application of Tort Rules in Contract Liability] 129 (1991) with Certified English Translation
- B-42. BGE 126 III 113 with Certified English Translation
- B-43. Frederic Krauskopf, Art. 144 / III. Pflicht jedes Solidarschuldners zur Leistung (Art. 144 Abs. 2 OR) [Obligation of all joint and several debtors to perform], in Die Solidarität, Art. 143 - 150 OR (3d ed. 2016) with Certified English Translation
- B-44. BGE 131 IV 145 with Certified English Translation
- B-45. 6B_473/2012
- B-46. BGE 138 III 157 with Certified English Translation
- B-47. BGE 72 II 165 with Certified English Translation
- B-48. BGE 89 II 396 with Certified English Translation
- B-49. BGE 88 II 455 with Certified English Translation
- B-50. Franz Werro, La responsabilite civile 338-351 (3d ed. 2017) with Certified English Translation
- B-51. Franz Werro, La responsabilite civile 410 (3d ed. 2017) with Certified English Translation

- B-52. Stephan Weber, Kausalität und Solidarität - Schadenszurechnung bei einer Mehrheit von tatsächlichen oder potentiellen Schädigern [Causation and Joint and Several Liability – Damage Attribution in a Multiplicity of Actual or Potential Injurers], in REAS 115-27 (2010) with Certified English Translation
- C Franz Werro & Vincent Perritaz, *La pluralité des responsables: nouvelles conceptions et changements de jurisprudence* [Joint liability: new concepts and changes in the case law], Mélanges à la mémoire de Bernard Corboz 279 (Grégory Bovey & Benoît Chappuis & Laurent Hirsch eds., 2019) with Certified English Translation (Deposition Exhibit 16)
- D Affidavit of Franz Werro, *Kaufman v. Luzern*, No. 95 Civ. 3316, 1997 WL 34460613 (S.D.N.Y. May 14, 1997) (Deposition Exhibit 17)
- E Franz Werro & Virginie Sonney, *Les services internet et la responsabilité civile* [Internet services and civil liability], Zeitschrift für Kommunikationsrecht 119-132 (Bertil Cottier et al. eds., 2008) with Certified English Translation

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 17, 2020 in Herndon, Virginia.



RATHNA J. RAMAMURTHI