October \_, 2013

VIA HAND DELIVERY

Employment Policies Institute

Attn: Legal Counsel

1090 Vermont Ave. NW, Suite 800

Washington, D.C. 20005

Re: Misappropriation of Likeness

To Legal Counsel:

I represent the Democratic Congressional Campaign Committee (the "Committee") and Congresswoman Nancy Pelosi in connection with the matters discussed in this letter. Please direct all correspondence regarding this letter to me.

As you are aware, the Employment Policies Institute ("EPI") is currently running advertisements on Washington Metropolitan Area Transit Authority ("WMATA") property that feature an image of Committee member Congresswoman Nancy Pelosi. The image of Congresswoman Pelosi appears under a banner that says, "Teens who can't find a job should blame her:". The ads continue, "Representative Pelosi and others are pushing for another minimum wage hike, which will make it even harder for teens to get experience and learn the skills needed to make it in today's job market."

Your activities are illegal, unauthorized, and not in compliance with WMATA requirements. Therefore, they must be stopped immediately.

EPI has not requested permission to use Congresswoman Pelosi's image or likeness, nor has either the Committee or Congresswoman Pelosi authorized EPI to use the Congresswoman's image in any manner. We therefore demand that you immediately cease and desist from any further use of Congresswoman Pelosi's name or image in connection with any EPI advertising or promotion.

WMATA regulations state that advertising which is "false, misleading or deceptive" will not be allowed on WMATA property.[[1]](#footnote-1) WMATA regulations further require all advertising on WMATA property be in full compliance with all "laws, ordinances, and regulations of the political subdivisions in the transit zone.”[[2]](#footnote-2)

The laws of the District of Columbia prohibit, among other things:

* The misappropriation of a person's name or likeness to another person's own use or benefit;
* Representing that a person has an affiliation or connection with another group that the person does not have;
* Misrepresenting a material fact that has a tendency to mislead; and
* Disparaging another by false or misleading representations of material facts.

In addition to violating these provisions, EPI's advertisements likely also violate Virginia and Maryland state law. In particular, courts in Virginia recognize a person's exclusive right to control the use of her name or likeness as right of privacy. Both D.C. and Virginia recognize a right to sue for money damages for the use of a person's image or likeness without having first obtained the written consent of that person. In Virginia, a person who has knowingly used another person's name or image without permission may be liable for punitive damages.

In order to avoid escalation of this matter, you must respond to me in writing within 72 hours confirming that you:

* Have instructed WMATA and CBS Outdoor to immediately remove all EPI advertisements featuring Congresswoman Pelosi's likeness from any and all WMATA advertising spaces;
* Will not use the image or likeness of Congresswoman Pelosi or any other member of the Committee in future advertising on WMATA property or on any other advertising space; and
* Have instructed EPI employees not to design any future advertisements that feature the image or likeness of Congresswoman Pelosi or any other member of the Committee.

With your written confirmation, please also provide the following information:

* A complete list of all WMATA locations where advertisements featuring Congresswoman Pelosi or any other Committee member currently appear or are scheduled to appear in the future;
* A complete list of all locations other than WMATA locations such advertisements appear or are scheduled to appear in the future; and
* The specific dates any such advertisements are scheduled to appear.

If you ignore this letter, the Committee and Congresswoman Pelosi will take whatever measures they believe are necessary to enforce their rights.

This letter is sent without waiver of any rights or remedies available to the Committee or any of its members.

Very truly yours,

Marc E. Elias

Cc:

Washington Metropolitan Area Transit Authority

Attn: General Counsel

600 5th Street NW

Washington, D.C. 20001

CBS Outdoor

Attn: Dan Langdon, Vice President and Regional Manager

1625 K Street NW

Washington, DC 20006

1. WMATA Board of Directors, Guidelines Governing Commercial Advertising (Nov. 20, 2003). [↑](#footnote-ref-1)
2. WMATA Board of Directors Regs. § 100.09(b)(2), (3). [↑](#footnote-ref-2)