



Congress of the United States
House of Representatives

December 8, 2015

Dear Colleague,

Early next year, the Supreme Court will hear oral arguments in *Bank Markazi, the Central Bank of Iran v. Peterson*. If the Court rules in favor of Bank Markazi, it will both deny justice to victims of Iranian terrorism and limit the legislative powers of Congress. As you know, the Bipartisan Legal Advisory Group “speaks for, and articulates the institutional position of, the House in all litigation matters,” House Rule II.8(b); and it will be filing with the Court later this month an amicus brief in support of the plaintiffs. Because the law in question passed the House by an overwhelming bipartisan margin, and because there is no more pressing issue than the fight against terrorism, I am inviting all members to add their names to the brief.

The plaintiffs represent more than 1,300 Americans who are victims of terrorist attacks sponsored by the government of Iran, or their representatives and surviving family members. This group includes the victims and surviving family members of the 1983 Beirut Marine barracks bombing, which killed 241 American servicemen and wounded dozens more; the 1996 bombing of the Khobar Towers in Saudi Arabia, which killed 19 servicemen and wounded hundreds more; as well as other bombings, an assassination, and a kidnapping. All of the plaintiffs have proved in Court that the Iranian government was responsible for the attacks and have obtained a judgment against Iran. The validity of these judgments is not in dispute.

What is in dispute is how these victims may recover damages on these judgments. Congress has frequently taken action to ensure that victims of Iranian-sponsored terrorism would be compensated for their losses. For example, under the Terrorism Risk Insurance Act of 2002 (TRIA), Congress made it possible for victims of terrorism to execute judgments against “the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party).” TRIA § 201(a). The assets against which the plaintiffs seek to execute their judgments were blocked pursuant to an executive order issued by the President in 2012 that blocked all assets of Iran and its agencies and instrumentalities (including Bank Markazi) that are in the United States.

While the plaintiffs’ attempts to execute their judgments were pending, Congress again took action to protect the victims. In 2012, Congress enacted the Iran Threat Reduction and Syria Human Rights Act of 2012, in response to Iran’s efforts to acquire a nuclear-weapons capability as well as other developing threats. The House vote on this bill was 421–6. One of the provisions of this act, 22 U.S.C. § 8772, provides that “the financial assets that are identified in and the subject of proceedings in” this case “shall be subject to execution . . . in order to satisfy

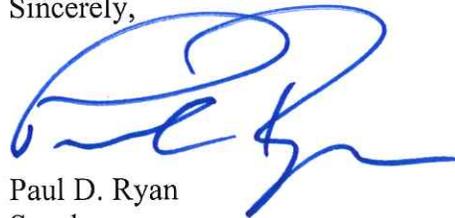
any judgment . . . against Iran for damages for personal injury or death caused by an act of . . . extrajudicial killing,” but only if the court “determine[s]” both that (1) “Iran holds equitable title to, or the beneficial interest in, the assets,” and (2) “no other person possesses a constitutionally protected interest in the[m].”

Bank Markazi has challenged the constitutionality of § 8772, arguing that Congress has intruded upon the judiciary’s powers by changing the law applicable to a single case and, further, directing the outcome of that case. This argument was rejected first by the district court and then unanimously by the Second Circuit. Each of these lower courts relied on the same unbroken line of Supreme Court precedent, which unambiguously holds that while Congress may not usurp the judicial function the Constitution assigns to the federal courts, it *may* change the law applicable to a pending case, even where the result under the revised law is clear.

The Bipartisan Legal Advisory Group believes it is important for the House of Representatives to take this opportunity to protect Congress’s power to make laws and, in this particular case, to help bring justice to the victims and their families. That is why the group intends to file as amicus and why I am inviting you to add your name to the brief.

Time is of the essence: The brief must be filed by December 23 and will need to go to the printer by December 18. So we would need your firm commitment to sign on to the brief before it is finalized and, in any event, no later than close of business on December 16. Please do not contact the Office of General Counsel, which is preparing the brief. If you have any questions, or wish to review a very basic outline of the arguments that will be presented in the brief, please contact Greg Robinson in the Speaker’s Office at x52370. Thank you in advance for your consideration.

Sincerely,



Paul D. Ryan
Speaker